

SEPARATED CHILDREN IN EUROPE PROGRAMME
QUESTIONNAIRE FOR COUNTRY ASSESSMENT

COUNTRY: Italy

EVALUATION PERIOD: 1998-2003

RESPONDENT: Save the Children Italy (edited by Elena Rozzi and Simona Pari)

AGENCIES/ INDIVIDUALS CONSULTED AND DOCUMENTS USED OR REFERRED TO:

- 1) For the main sections and sections referring to minors not seeking asylum and not part of social protection programmes information sources are:
 - the analysis of the laws and policies addressing separated children carried out by Save the Children Italia in the last two years (reference www.savethechildren.it/minori/normativa)
 - contacts made with associations and institutions in various cities (Rome, Turin, Milan, Florence, Pisa, Trento, Trieste, Venice, Genoa, Modena, Pescara etc.) by Save the Children Italia;
 - the replies given by 21 workers in different cities (Rome, Turin, Milan, Florence, Bolzano, Pescara etc.) to a questionnaire structured on the basis of the questions raised in this document;
 - a number of research documents addressing the topic of separated children, specifically two reports edited by the International Social Service: Servizio Sociale Internazionale, “Rapporto sul programma svolto dal Servizio Sociale Internazionale in Italia e in Albania negli anni 1998-1999”, Rome, 2000; Servizio Sociale Internazionale (Italian Office), Istituto Psicanalitico per le Ricerche Sociali, “I minori albanesi non accompagnati – Una ricerca coordinata fra Italia e Albania”, Rome, 2001;
 - data furnished by the Committee for foreign minors (hereafter Committee).

- 2) For the sections on minors that are part of social protection programmes information sources are:
 - primarily, the research document “Il traffico internazionale di minori. Piccoli schiavi senza frontiere”, carried out in 2001-2002 by Save the Children Italia, Terre des Hommes Italia, Fondazione Internazionale Lelio Basso and Associazione Parsec, with the contribution of the Italian Ministry of Foreign Affairs. The research is based on available bibliography on the issue of trafficking in children, on data available from associations and organisations that deal with trafficking, on data from the Department of Equal Opportunities and from the Ministry of Interior, on interviews with 70 care workers from 50 organisations in Italy, Albania and Romania, and on the identification of services that deal with trafficking in minors with the aim of sexual exploitation;

- interviews with experts and researchers contacted by Save the Children, other research documents on the issue of the trafficking in minors and newspaper articles.
- 3) For the sections on minors seeking asylum: information sources are contacts with the UNHCR, with a number of associations working with minors seeking asylum (CIR and Casa dei diritti sociali), and with some accommodation centres where minors seeking asylum are placed in Turin, Milan, Crotone etc. (contacted by UNHCR).

DEFINITION OF "SEPARATED CHILD" (SGP:A 2.1)

a) Please give details of the definition used in your country. Different agencies may apply different definitions. Please give details of this.

1) A "unaccompanied foreign minor is a child that does not possess Italian citizenship or that of any other country of the European Union, who finds him or herself in Italy, without the care or protection of parents or of any other adults legally responsible for him or her, under the laws in force in Italy.

Therefore, "separated children" are not only children that are totally alone, but also children accompanied by adults (including relatives such as siblings, aunts and uncles, cousins) that have not been appointed as guardian or foster person by means of a legal procedure [ref. par. "Appointment of guardian or adviser"], because these minors have no legal representation under Italian law.

If a relative within the third degree of relationship fosters the child, under a judicial ruling, only in this case is the child no longer described as "separated".

In practice, however, due to poor information and contradictory indications on behalf of the relevant institutions, many care workers do not consider children living with relatives as "separated children" and, therefore, do not treat them as such.

If a child enters Italy and/or lives there together with a parent and is subsequently abandoned, he or she is considered a "separated child".

2) On the basis of the channel they become part of, separated children can be divided into three major categories, characterised by quite different status:

- children not seeking asylum and not part of social protection programmes;
- children part of social protection programmes;
- children seeking asylum.

However, it is worth stressing that the above distinction refers to the channel into which the child is placed and not to his condition at the outset. In other words, it does not correspond to the distinction between child economic migrants / trafficked children / child refugees: for example, many children (probably the majority) that are persecuted in their own countries do not seek asylum, just as many children, victims of trafficking and exploitation are not placed in social protection programmes. As a consequence, although these children are actually persecuted or exploited, they nevertheless fall into the first category.

The majority of separated children in Italy fall into the category of children “not seeking asylum and not part of social protection programmes”. As opposed to countries in Northern Europe, there is a very low number of separated children seeking asylum in Italy.

This is partly due to the diversities in the phenomenon: Northern Europe receives many children coming from countries that produce consistent flows of asylum seekers (Somalia, Afghanistan, Sri-Lanka, etc.) that are fleeing persecution or war. On the contrary, children coming from these countries that are identified and stay in Italy (many are probably in transit and travelling elsewhere) are comparatively few, although detailed statistics are not available. The majority of separated children in Italy come from Albania, Morocco, and Romania, and emigrate customarily because of economic reasons.

This difference is also due to the policy prevailing in the different countries: firstly, Italy – as opposed to many others – provides for procedures for protection (including the issuing of a residence permit) of separated children as such, regardless of whether or not they are seeking asylum. Secondly, it is often the case that children with all the essential requisites for obtaining refugee status, do not apply for asylum, as they are not adequately informed or are even discouraged by professional staff, that do not have a proper knowledge of the procedures leading to the determination of refugee status, or consider them more complex and less safeguarding compared to procedures addressing separated children not seeking asylum.

In the same manner, many children who are victims of trafficking or exploitation are not placed in social protection programmes due to the lack of adequate knowledge of procedures on behalf of professional staff or because they consider this course of action less safeguarding for the child.

In the following, the definition “children not seeking asylum” refers to all children that do not apply for asylum, including children that are placed in social protection programmes.

Some regulations differ for children not seeking asylum and for those who seek asylum; a distinction will therefore be made between the two categories. In some paragraphs, however, there is no difference as regulations for the two categories are the same.

b) Are children with older siblings over 18 years of age considered to be separated children?

Please refer to Annex II of UNHCR Guidelines 1997.

Yes, except when, under a judicial ruling, the sibling has been appointed foster person.

c) To what extent does this conform to the Statement?

The definition sufficiently conforms to the Statement; in practice, however, many children living with relatives are not treated as separated children.

d) Are any changes needed? In relation to any first principle?

All professional staff should be properly informed that children living with relatives that have not been appointed as neither guardians or foster families, under a judicial ruling, be treated as “separated children”.

1. ACCESS TO THE TERRITORY (SGP: C1)

1.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

a) Regulations/ Laws

Italian immigration law provides that foreigners reaching borders without the necessary prerequisites for entry into Italy who are stopped upon entry or shortly after, should be returned at the point of entry.

There will be no provision for return if the immigrant has to go back to a country in which he may be persecuted due to matters related to race, sex, language, citizenship, religion, political opinions, personal or social conditions. Likewise, he/she will not be repatriated if there is a possibility of his being sent back to another country where he will not be protected from persecution, or if he applies for refugee status, or if the government has taken up temporary protection measures in the event of conflicts or natural disasters.

If the foreigner has to be returned, the airlines, train or boat company that has taken him to the border is obliged to take immediate responsibility for him/her and to take him/her back to the country of origin.

Foreigners that have to be returned may be held in administrative detention centres (Temporary assistance and detention centres).

Unlike expulsion, for matters regarding return at the point of entry and detention pending return, the immigration law does not provide specific protection for children: so a child can be refused entry and returned (and detained pending removal) like an adult.

Finally, adoption and fostering law states that if a child is not granted permission to enter Italy, whoever has accompanied the child to the border has to organise his immediate repatriation to his country of origin at their own expense. In addition, the law states that immigration authorities have to immediately notify the case to the Committee for foreign children [ref. par. “Family Reunification and Returns to a Country of Origin”] in order for the latter to contact the child’s country of origin to ensure that he be placed in a situation which meets his best interests.

b) Practice

Children who are stopped upon arrival at Italian borders are often held – at least until a suitable centre is identified – in Temporary assistance and detention centres, together with adults, where there is no specific child care.

Cases have been notified of children having been held for an extensive period of time, where care workers did not realise that they were underage, or that they had serious health problems.

We are not aware of cases of separated children being returned at the point of entry or of immediate repatriations. However, information about returns at the point of entry in general is scarce, and by no means it can be excluded that also separated children have been returned.

1.b) To what extent does this conform to the Statement? Please outline in brief.

There is no guarantee that the recommendations of the Statement, wherein separated children should never be refused entry or returned at the point of entry, and should never be detained for immigration reasons, are respected.

1.c) Are any changes needed? In relation to any first principle?

The law should be amended in order to exclude the possibility of return of separated children at the point of entry.

1.d) Please also indicate whether your country has a "carrier liability legislation" whereby airlines, train and boat companies can be fined if they carry someone without the proper documents. Is this applied to children and young people under the age of 18?

See the above.

Trafficking (SGP: C 1.2)

1.e) Are you aware of any children being trafficked for the purposes of exploitation into your country? If so please give brief examples stating if possible the country of origin and nature of trafficking. Please also give examples where children have travelled along trafficking routes in order to apply for asylum.

In Italy trafficking in children is very closely linked to sexual exploitation. Although during the last decade a number of other markets have emerged for which these minors are a source: certain marginal sectors of illegal labour, begging, international adoption for profit, and in a few cases for the sale of organs. However, no official data is available for these other areas of exploitation. In Italy, mainly due to the prevailing norms, which consent a foreigner who is being exploited to be issued, under certain conditions, with a residence permit "for social protection reasons", the attention of Institutions and the Media has mainly been directed towards trafficking in children for sexual exploitation. Also, as investigations at the national level and official bodies for the recording of data do not exist, knowledge on the advancement and development of other types of trafficking remains incomplete. The only figures available on this phenomenon are those relating to permits issued for social protection reasons, which are however incomplete and outdated (at the time of writing the figures regarding 2002 are still not available). Those figures which are available are extracted from judicial statistics, from data of associations and street units, from interviews with street workers and volunteers from assistance and aid associations and from statements made directly by the victims themselves.

Italy is affected by trafficking in children mainly as a point of transit on the route from Eastern Europe and North Africa towards central and northern Europe. The trafficking in women and children for profit regards diverse geographical areas, in particular southeastern Europe, ex-USSR, Nigeria and some areas of the Indian sub-continent and southeast Asia as well as areas which include several African countries on the Gulf of Guinea and some Latin American countries. These flows are directed towards different European destinations such as Greece, Italy, Austria, Germany, Baltic Countries, France, Spain, Portugal, and the United Kingdom. At the beginning of the 1990s, the arrival of women and children from Albania was recorded. They were accompanied by parents and fictitious boyfriends and had often been abducted in their own country. The mid-1990s saw the arrival of women from Eastern Europe, especially Rumania. This appears to have been caused by the Security Forces cracking down on Albanian organized crime meaning that other routes and recruiting areas for trafficking had to be found (countries on the Albanian border: Kosovo, Romania, Moldavia). According to information recently furnished by workers in reception centres, the presence of Albanian minors is falling, whilst that of women and children from Bosnia is on the rise. The major national groups running this traffic are Albanians and Romanians and since the 1990s African and ex-Yugoslavian citizens.

"Data available on those national groups which mostly come under the umbrella of social protection programmes reflects a greater tendency amongst Albanian minors, and after them Romanian girls, to be taken under the wing of the Services which are instrumental in assisting them to escape from the world of forced prostitution. During the last year of reference (March 2000 – February 2001) there were 134 cases of minors entering social protection programmes."

The forms of sexual exploitation in Italy vary from paedophilia to pornographic films involving child-actors, from children being compelled into street prostitution to confinement in brothels. Nearly always the very young age of these child prostitutes is considered as an added value which is especially sought after on the sex market. According to an estimate based on figures from associations and care workers, in the period from 2001 to the spring of 2002, prostitution in Italy swayed from a minimum of nearly 10,000 subjects to a maximum of 13,000 with a presence of minors ranging from 4.3%-6.2% (i.e. an average of 5.2%) resulting in a total figure of between 542 and 663 subjects, where the majority were trafficked women from Eastern-European countries especially Albania, Moldavia, Romania and Nigeria (these figures are based on applications made for social protection). “Significant information is that concerning Nigerian women: although they represent the group which has presented the largest number of applications for social protection, 50% of the total (5.577 subjects), the presence of minors amongst them is quite low.”

Also, for what concerns prostitution, Italy has increased its transit position on the route for trafficking in women and minors for sexual exploitation. Some groups of women arrive, act as prostitutes for a few months and then leave Italy for other European countries. Some may move around within the country. This is because the gangs are aware of the grave risks they run with the law, where minors are involved, and use very flexible ways of exploitation. They do not keep the minor in the same place for more than one/two weeks, or maximum one month. They then move them to other parts of the city or even other cities; they often sell the minor – or rent them in exchange for money or other women to recruit – to other gangs who keep them for the same short length of time and they are sold once again. Young girls appear to be most affected by this mobility: as women prostitutes are in a more vulnerable situation (no documents, under-age, and absolute lack of freedom) their geographical and territorial movement is greater. In addition, under-age prostitutes on the streets are now regularly being moved into apartments or to club prive`, discotheques and clubs which open and shut down continuously.

It is also significant that within the world of child prostitution there is an area of male prostitution. From interviews carried out in this context and from information gathered by social workers, two types of male prostitution can be identified: the first regards minors who are isolated and not accompanied by their parents, who act as prostitutes to guarantee their survival (groups of Kurds in Rome, Romanians and Moroccans in Milan, Moroccans and Tunisians in Naples). Often these minors alternate between prostitution and other itinerant jobs, such as selling tissues at traffic lights or other random work. Another form of male prostitution is more temporary and linked to a deeper intimate dimension coinciding with the youth becoming aware of homosexuality. For the most part, minors who act as prostitutes are adolescents (between 14 and 18) and the impression given is that they are not “handled” by pimps, as women are.

Although cases of male prostitution do exist, sexual exploitation is still very closely linked to gender. Groups of male minors are still mainly forced into begging and street selling and much less into street prostitution. This distribution would seem to depend on criteria regarding areas of major profit that either males or females can guarantee for their exploiters.

At present in Italy, the most widespread forms of exploitation, other than that of sexual exploitation, are:

- begging, street selling, car-windscreen washing;
- selling drugs;
- bag snatching and petty thieving

Origin may often affect the type of exploitation: for example in lots of cities minors from Rumania are especially involved in bag snatching, whilst Moroccan minors in selling drugs.

1.f) Have any measures been taken by the state to combat trafficking of any sort?

1) Trafficking has recently received a lot of attention from the public, the mass media and institutions. However, in Italy the level of public's awareness towards trafficking in minors is still not high enough. Trafficking is generally identified with adult women. Its other side, which is just as significant, namely the trafficking of minors, mostly for their exploitation on both the sex market and in precarious and underpaid labour, often goes neglected

Another area of confusion is the almost constant identification of "trafficking" – i.e. the transfer of minors for the purposes of their exploitation – and "smuggling", that is bringing people into a country illegally in order to gain profit from them. If indeed trafficking constitutes an illegal procedure which should, in all ways, be opposed and eliminated, immigration as such does not, and can even have very positive aspects, such as the right of the individual to seek a better life and opportunities abroad. This confusion in understanding the different forms of trafficking leads to a series of inaccurate analytical interpretations, which in turn result in inappropriate political and operative moves which often damage the minor.

There is also a tendency to tackle trafficking by crackdowns, as though it were a matter which only regards safety and crime, whilst it does, in actual fact entail an obvious violation of a vast number of fundamental human rights. Repressive measures can often lead to criminalizing the child, when he is automatically identified as an illegal immigrant, and not as a victim of a violation of human rights, and either returned. Indeed, in spite of the Palermo Protocol, which has yet to be approved by the Italian Parliament, which provides for fundamental measures for the protection of victims, the repressive approach of the government, especially following the approval of the new law on immigration, is often conducive to the victim's criminalization.

2) The most important measure adopted by the Italian state in its fight against trafficking is the provision for permits "for social protection" for foreigners who are victims of exploitation. Indeed, the law on immigration provides that a foreigner who finds himself in a situation of such violence or grave exploitation to the extent that his very life is threatened, after attempts made to escape the clutches of a criminal organization, or fears of reprisal for making statements during the course of a trial against his exploiters, may be issued with a permit "for social protection" to enable him to break free from the violence and repression of a criminal organization and to participate in a social care and integration programme. This measure should also be applied to cases of abuse and danger which are not necessarily linked to prostitution only, but to other activities (begging, drug selling, etc.). However, it is nearly always only applied in cases of exploitation for prostitution.

The issuing of these permits is decided by Police Authorities. The imminence and depth of the danger which the foreigner is in, and the extent to which he collaborates with the police when giving information against criminal organizations are important factors when issue of the permit is being considered. However, by law, charges made against the exploiters by the foreigner do not constitute an essential factor for issuing a permit, which is issued even in cases where the victim of abuse is not willing to bring charges against his exploiter.

The permit for social protection is valid for 6 months and can be renewed for a year or for a longer period. It gives the holder permission to work, and can be converted into a study or employment permit. It can be rescinded when a programme of social care and integration is interrupted. The application of this measure differs greatly from area to area.

Social care and integration programmes may be run by private bodies: associations, NGOs associated with Local Authorities, or by the Local Authorities themselves (Councils, etc.). NGOs

are financed 30% by local funds and 70% by state contributions administered by the Ministry for Equal Opportunity. The selection is made by an inter-ministerial commission including the Ministry for Equal Opportunity, Ministry of Welfare, the Ministry of Interior and Ministry of Justice. To date 49 organizations have been financed.

The programme is divided into two phases: the first regards social care and protection, placement in a reception centre, residence permit, legal assistance and psychological support. The second phase is aimed at social integration, with language courses, assistance in finding work, advice on penal procedures. People become aware of social protection programmes in different ways: through the police forces, associations, clients, street units, hotlines against trafficking, territorial institutions.

The social protection programmes have been the means by which many people have succeeded in freeing themselves from a condition of exploitation, have obtained access to protection and assistance, and have embarked upon the course towards integration and the possibility of remaining in Italy legally. This law has also proved to be very effective for the police forces, as, even in case where people are too frightened to bring formal charges against their exploiter, once they are accepted and become part of a protection programme, they provide useful information for investigations.

The permit for social protection reasons can also be issued to minors who are victims of exploitation.

In many cases, however, minors are not placed in social protection programmes, for a number of reasons: because children, unlike adult illegal immigrants, are always guaranteed the possibility of obtaining a residence permit “for minors” even if they are not placed in social protection programmes (ref. par. “Registration and documentation”); because the issuing of a permit for social protection also requires the planning of an integration programme; and because this type of course could lead to the minor coming under “pressure” from the Police Forces to bring charges, or in any event, collaborate towards the investigations and trial against his/her exploiters.

However, on the other hand, the permit “for minors” is not, in the majority of cases, converted into a study or employment study permit (ref. par. “Integration”) when the minor reaches 18: it can, therefore, be stated that issuing a permit for social protection is a measure for increased protection for the minor.

Legislation and the setting-up of a network of private, social and institutional resources allow for timely action when the need for intervention arises in cases where minors are victims of exploitation. The services take immediate charge of the minor – when they are alerted. Indeed, as witnesses have observed, it is very difficult for a child, of his own initiative or choice, to try to free himself, given that the conditions of intimidation and violence under which he/she has been living have led to feelings of suspicion, distrust and general fear.

3) In addition to the laws on immigration, some provisions in the penal code and the law on prostitution are significant with regards to trafficking.

The Penal Code provides for prison sentences, for acts of enslavement, for trading in slaves and trafficking, for mafia-type associations involved in the trade of human beings, and specific sentences for prostitution and trafficking in children (introduced by the law “against exploitation by prostitution, pornography, sexual tourism which damage minors, as new forms of slavery”).

Parliament recently (July 2003) approved the new law on the trafficking of human beings. The new law provides for a response to the need for harmonising national legislation, as expressed by the EU and the UN, by introducing into the Penal Code a definition of the offence of trading in persons. It will also avoid uncertainty in interpreting the law. Indeed, the new law sets the following:

- specific definitions which allow for a differentiation between offences for trafficking, for slavery and for servitude;
- the harshening of sentences (from 5-15 and 8-20 years, that can be increased by a third or a half in cases of very serious offences such as the removal of organs, prostitution for gain and when the victim is under age);
- stronger protection for children, in as much as sentences are more severe if the victim is a minor;
- introduction of an offence for forcing children to beg and scavenge (5-15 years imprisonment);
- association with the intent of trafficking constitutes an offence;
- the establishment of a fund for anti trafficking measures into which confiscated sums will be deposited;
- coordination of investigations comes under the authority of the National Antimafia Board.

As a result of the new law, all cases where a state of “submission” is verified caused by “physical and psychic inferiority” and/or a “situation of need” will be sanctioned. All offenders who take advantage of a state of psychological submission caused by grave economic needs or by a pronounced cultural difference will be prosecuted. The new law also proves to be very important in that it clearly allows for a wide interpretation of “trafficking”, which includes all forms of trading in human beings for the purposes of “exploitation”. In short, the law not only punishes international trafficking, but also that carried out at the national level with Italian citizens.

Ultimately, the law on prostitution sets specific penalties against trafficking in human beings for sexual exploitation, even when violence, coercion and abuse are not involved. The government recently put forward a proposal on prostitution which would modify the present law, prohibiting street prostitution, but permitting it in private flats. This would jeopardise the efforts of social workers and the police forces at the national level, by increasing covert activity and by forcing exploitation underground and with it the possibility of minors breaking free from the cycle of exploitation and of being protected.

4) In addition, in 2000 a hotline to combat trafficking was set up, which includes a central switchboard, active 24 hours a day, and 14 local centres, which offer information on legal and health matters and on residence permits.

During 2000-2001 the Inter-ministerial Commission promoted an awareness campaign on trafficking in women and children who are victims of traffic for sexual exploitation.

Italy has also funded prevention campaigns (such as awareness campaigns) in the countries of origin such as Albania, Kosovo and Nigeria.

The National Antimafia Board has made the repression of trafficking one of the principal objectives on its agenda.

At present, Italy has not approved any plan of action against trafficking, guidelines, however, do exist which recommend capacity building, awareness campaigns, strengthening of the legal system, strengthening of border cooperation with countries where trafficking has origin and with the other EU members.

5) To guarantee effective protection and monitoring of the rights of minors who are victims of trafficking and exploitation the following measures should be adopted:

- an approach in which the child’s best interests are taken into consideration during all the phases of dealing with the phenomenon (prevention, protection, contrast, reintegration); in addition projects for protection and reintegration should adopt methods which are specifically based on children’s rights, and increased capacity building and training would be necessary to make projects more child friendly;

- the implementation of social protection programmes should be made more effective, and victims placed in a condition to access to them; in this context, it is most important to strengthen the diffusion of information so that people who come into contact with potential victims of trafficking can give them information on the possibility of being protected.
- strengthening the system of protection and reintegration for victims of trafficking linked to exploitation of labour and other abuses (until now, interventions connected to social protection programmes have almost exclusively been focused on sexual exploitation);
- strengthen the participation of minors: the agencies which handle the rehabilitation and reintegration of minors should take into account the right of minors to have a say in the programmes and decisions which regard his/her present and future;
- strengthen the first contacts made by street operators, preferably cultural mediators or staff with similar training, so that a relationship of trust can be established with children who are victims of exploitation;
- strengthen interventions for protection, such as moving the child to an accommodation centre situated in a different city to the one where he/she has been exploited, so as to reduce the risk of his being caught up in the exploitation network once again;
- procedures of age assessment for the identification of minors, especially in the case of arrest and expulsion of prostitutes who are not in possession of a residence permit, in order to avoid the expulsion of the minor, and to adopt the various protection set by the law;
- use assisted repatriation only as a measure in the interest of the minor: repatriation should not be used as a threat to obtain the child's collaboration during investigations nor should it be discouraged so as to make the child remain in Italy and be used in trials against organised crime.
- strengthen the system of referral and make possible repatriations more efficient and safer;
- implement measures for family members in the country of origin to guarantee them protection from reprisal;
- harmonise the numerous efforts of the various bodies involved in the fight against trafficking by implementing a multidisciplinary and more coordinated approach amongst the different programmes.

2. IDENTIFICATION (SGP: C2)

2.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

1) Border procedures

As far as we know, there are no norms or guidelines to identify separated children at ports of entry. If the child is accompanied by an adult who declares to be his parent or relative, normally no verification is carried out, even if there are no documents proving the relationship, and the child is temporarily and informally "entrusted" to the parent or relative.

On the contrary, on the border in Ancona, in all situations where the adult cannot demonstrate his relationship with the child with appropriate documents, the Minor's Court separates the child from the adult and puts him into an accommodation centre, with no psychological evaluation of the nature of the relationship.

2) Children not seeking asylum

a) Regulations/Laws

The child's identity has to be verified by public security authorities and, if necessary, with the cooperation of the diplomatic authorities of the child's country of origin.

The law also provides that diplomatic representatives of the child's country of origin be informed of the measures adopted by Italian institutions for the protection of the child.

In addition, the general rules for the protection of children are applied to separated children. According to these, if the child has been abandoned or if he/she is taken care of by a person who is not a relative within the fourth degree of relationship for a period of more than 6 months, his case has to be notified to the Public Prosecutors Office at the Minor's Court.

b) Practice

The majority of separated children are not identified at the port of entry, but later.

If a child comes into contact with the Police, Social Services or other authorities such as schools and declares to be alone in Italy, or would appear to be in this condition, he is identified as a separated child and procedures for his protection are initiated (placement into an accommodation centre, notification to the Committee and to the Minor's Court, etc.).

On the other hand, if the child declares to be living with, or is accompanied by an adult who claims to be a parent or relative, in some cases Social Services and/or the Minor's Court ask the adult to demonstrate the relationship with a passport or with another document issued in the country of origin. Authorities might also assess the relatives' ability to provide suitable care for the child. In other cases, no proof is required and no assessment of the adult's care ability is carried out. As a consequence, many children live with relatives that are incapable of taking care of them, that often exploit them for activities such as begging, that do not send them to school, and force them to live in dilapidated accommodation etc.

Finally, a considerable number of children do not come into contact with any kind of institution, and, therefore, live with no protection, and are exposed to abuse and exploitation.

Some children come with no identification, others come with false documents, others with real documents (birth certificates, passports in some cases).

In the absence of a valid passport, a photograph and fingerprints are normally taken.

In some cases, the consulate of the country of origin will take part in the identification procedures, although collaboration varies from country to country.

Police authorities need a person's passport for the renewal of the residence permit. The document is, therefore, requested from the Consulate. However, problems are frequent due to slow procedures, and to the high fees that are sometimes charged. In some cases, the family in the country of origin is requested to send the passport, which is then forwarded to the child.

3) Children seeking asylum

Immigration and asylum law states that if the child applies for asylum, the diplomatic authorities of the child's country of origin should not be informed.

A photograph of the child and his fingerprints are taken.

The law moreover states that, if the person applying for asylum is a separated child, his application should be notified to the Minor's Court for the appropriate measures to be initiated.

2.b) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not adequately respected. There are no efficient procedures to identify separated children, in particular at points of entry and when children are accompanied by an adult.

2.c) Are any changes needed? In relation to any first principle?

The following is necessary:

- dispositions to identify separated children both at points of entry and within Italian territory; in particular, if the child is accompanied by an adult claiming to be his parent or relative, the adult should be asked to demonstrate this relationship with a document or with an appropriate technical evaluation;
- when the adult is not a parent, but a relative, an assessment of the adult's ability to take suitable care of the child should be carried out (the adult must not exploit the child, must send him to school, and provide adequate living conditions, etc.)

3. APPOINTMENT OF GUARDIAN OR ADVISER (SGP: C3)

3.a) Is a guardian or adviser appointed?

Italian law provides for the existence of two different roles: the guardianship and the fostering. The law prevailing for all children is applied to foreign children. There are no specific rules for the appointment of a guardian or foster person for separated children: this may cause problems at times, as regulations often do not suit the children's particular situation.

1) Guardianship:

a) Regulations/Laws:

A guardian must be appointed when both parents are dead or if they cannot, for other reasons, exercise parental authority.

b) Practice

Practice is highly differentiated.

According to some Magistrates, a guardian should be appointed for all separated children. According to others, parents do not lose their authority due to living in another country, and therefore, do not appoint a guardian. In some cities, guardianship is never considered.

2) Fostering:

a) Regulations/Laws

Fostering can be granted if the child is temporarily without a suitable family environment.

b) Practice

Practice is highly differentiated.

Some Magistrates order fostering for all separated children. Others, only for children under a certain age, and others do not order fostering at all.

3.b) If so what is their role?

1) Guardian

a) Regulations/Laws

The guardian is responsible for the child's person, represents him in all civil acts and administers his possessions, but he/she is not obliged to provide accommodation for the child.

The guardian does not receive an income.

b) Practice

The guardian legally represents the child in all interactions with public institutions (school enrolment, application for residence permits, interviews with the Commission for the determination of refugee status, filing of appeals, etc.)

In some cases, the guardian merely carries out formal duties, and accommodation centre care workers take care of the child in every day activities (school, social activities, etc.).

In other cases, the guardian takes care of the child during his daily activities, and develops affection and a strong personal relationship with him/her.

2) Fostering

The foster person has to welcome the child in his home, provide for his keeping and education; he has parental authority regarding all normal relations with school and health authorities.

The foster person normally receives an income.

3.c) How soon after the arrival are they normally appointed?

a) Regulations/Laws

The law provides that guardianship should be initiated immediately after the notification of the child to the Judge, and, if the child is placed in an accommodation centre, the person in charge of the accommodation centre should ask the Judge to initiate the procedure for guardianship within 30 days.

However, there are no specific terms for the appointment of the guardian or the foster person.

The law also provides that, until the Judge has appointed a guardian, guardianship is carried out by a local authority, or by the person in charge of the accommodation centre where the child has been placed. In this way, the child will always be ensured suitable legal representation.

b) Practice

Practice is highly differentiated.

The appointment of a guardian or foster person (if ordered) generally takes place after a quite long period of time, often months.

In addition, the provision according to which, prior to the appointment, guardianship should be carried out by a local authority, or by the person in charge of the accommodation centre where the child has been placed does not operate in most cases. The child is, therefore, void of legal representation with all the subsequent legal complications (impossibility of applying for asylum, of applying for a residence permit, etc.)

3.d) What kind of background and expertise do guardians/advisers have?

1) Guardianship

a) Regulations/Laws

Italian laws do not require specific skills to become a guardian.

The Judge may appoint a relative, another suitable adult, or a local authority representative (e.g. the Mayor or a care worker working for the Council's Social Services) as the guardian. In cases where a relative exists, he/she should be given priority. As of 2001, the person in charge of the accommodation centre where the child has been placed, together with all the people working in the accommodation centre, can no longer be appointed as guardians.

b) Practice

In most cases, a representative of the local authority is appointed instead of a relative or another adult. This causes two major problems. Firstly, a Mayor or a care worker are unlikely to develop affection for the child, and, therefore, the guardian's role continues to be administrative and formal. Secondly, it is unlikely that the local authority representative will always take action in the child's best interests: indeed, local authorities have to provide for placement expenses, and therefore, take an interest in minimising the number of separated children in their territory. Moreover, one authority rarely proceeds against the policy of another: for example, if a child has been ordered repatriation and refuses, the Mayor-guardian will rarely appeal against repatriation.

A representative of a local authority is often appointed because of the lack of people ready to take on the responsibilities of a guardian. Until 2001, the person in charge of the accommodation centre, or a member of the accommodation centre was often appointed as guardian. This is no longer possible due to an amendment of the law, which has strongly increased the number of local authority representatives being appointed as guardians.

In some cities (Turin, Milan, Trento), awareness and training projects have been developed and implemented to encourage Italian citizens to become volunteer guardians of separated children, or to hearten separated children's relatives into becoming guardians. Volunteers are often part of associations.

Some guardians are responsible for a very high number of children (local authority representatives in big cities are guardians of hundreds of children; some people in charge of residential homes have the guardianship of dozens of children).

If the child has a relative, some Magistrates appoint him/her as the guardian. Others do not, as they often deem the means of assessing the relative's ability to take care of the child as inefficient.

2) Fostering

a) Regulations/Laws

Italian law does not require specific skills to become a foster person.

According to the law, if possible, the child must be entrusted to a family, preferably with children, or to a single person, capable of keeping the child, and of granting him education, instruction, and all the loving and care he/she needs.

When family fostering is not possible, the child is placed in an accommodation centre or in a private or public care institute.

b) Practice

In most cases, the local authority or the accommodation centre is granted custody of the separated child. In some cases he/she is entrusted to relatives. The child is rarely entrusted to families or to individuals (to Italians or, hardly ever, to foreigners of the same nationality).

3.e) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not respected in different ways:

- a guardian or a foster person is not always appointed;
- the period of time that passes between the notification of the child to the authorities and the appointment of a guardian or foster person nearly always exceeds one month;
- prior to the appointment of the guardian, the local authority representative or the person in charge of the accommodation centre where the child is placed, which should exercise guardianship, often fail to do so;
- in most cases a local authority representative is appointed as guardian; because of conflicting interests (mostly regarding repatriation) he/she will not always take action in the child's best interests;

- in many cases the guardian is responsible for a very large number of children, and, therefore, cannot take care of them properly;
- in general, guardians are not adequately trained.

3.f) Are any changes needed? In relation to any first principle?

The following is necessary:

- policies providing that a guardian be appointed for every separated child within a month from his/her identification;
- an amendment to the law so that accommodation centre representatives may be appointed as guardians;
- local authorities and accommodation centre representatives have to take on their responsibilities for exercising guardianship prior to an official appointment of a guardian;
- awareness campaigns and training projects to encourage Italian and foreign citizens (in particular, when the child has a relative in Italy) into becoming guardians and/or fostering separated children;
- a more harmonized enforcement of guardianship and fostering law at the national level.

4. REGISTRATION AND DOCUMENTATION (SGP: C4)

4.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country? Please outline in brief.**

1) Children not seeking asylum

1. When public authorities, in particular health and assistance authorities, become aware of the existence of a separated child, they are obliged to notify his/her case to the Committee for foreign minors. Amongst other functions, this central office has to carry out a national census of all separated children not seeking asylum.

The Committee has ordered a “personal information form” to be sent for every identified separated child.

The following information is required:

- a) personal data (name, date and place of birth, sex, etc.), documents in possession, arrival in Italy (date of entry, point of entry, means of transport), when and where located, age assessment procedures, citizenship assessment procedures, possible relatives in Italy, family relationship assessment procedures, placement procedures (placement in an accommodation centre, fostering, guardianship), residence permit;
- b) educational and training background (literacy courses, schooling, training), hobbies;
- c) respect for the culture of origin (presence of a cultural mediator, possibility of using native language, of practicing native religion);
- d) information regarding family investigations and possible assisted repatriations: parents’ name, family address, school address;
- e) child’s participation: when and by whom the child was interviewed on issues regarding all initiated procedures; reasons for the child leaving his home country and choosing Italy; concern, if any, expressed by the child regarding repatriation; child’s knowledge of the possibility of applying for asylum.

This information is generally collected by care workers in local authorities or by accommodation centre workers. Some Social Services and accommodation centres send much information on children, others send very little.

Some children immediately provide correct data; others may take some time, and need to develop a relationship of trust with the care worker; others provide changing and misleading information.

2. Under the law in force all separated children that cannot obtain any different kind of residence permit (for “family reasons”, “asylum application”, “social protection”, etc.), and cannot be expelled as they are minors, have the right to obtain a special residence permit “for minors”.

Some police authorities issue the permit to all separated children, even if a guardian has not yet been appointed; others insist upon the appointment of a guardian, which leaves the child without a permit for a long time.

In addition, immigration law provides that:

- if the child has been entrusted to a foreign citizen legally living in Italy and resides with him/her, the child may be issued with a permit for family reasons; most police authorities, however, do not apply this law;
- if the child is being severely exploited and is part of an integration programme, the child may be issued with a permit for social protection reasons [ref. par. “Trafficking”];
- if the child has served in prison a sentence for crimes committed as a minor, and is part of an integration programme, the child may be issued with a permit for social protection.

2) Children seeking asylum and procedures at points of entry

1. Children have the right to apply for asylum only after the appointment of a guardian. This causes serious problems due to the extreme length of time prior to the appointment: indeed, the child may apply for asylum only after several months.

At the point of entry, only in very few cases is application for asylum registered prior to the appointment of a guardian.

During application procedures at the police station, the child is asked to provide personal information, date and means of departure from his home country, time he might have spent living in or crossing other countries, date and point of entry, possible membership of (political, religious, social, etc.) organisations, reasons for leaving his country of origin and/or reasons for not wishing to return.

In general, immigration and border police officers do not have appropriate training or expertise for interviewing children.

2. Children that have applied for asylum are issued with a residence permit for asylum application, which can be renewed until all procedures have been finalised.

3) Disappearance of children

A significantly high and increasing number of children leave the accommodation centres which they are placed in and authorities lose track of them.

They are mostly male Romanian or Moroccan children and girls from Eastern Europe.

Children leave accommodation centres for different reasons: some are exploited by adults, others prefer to go back to more profitable activities (prostitution, drug trafficking, theft, etc.) and are convinced of the difficulty of being issued a residence permit upon reaching 18, others do not accept living in an accommodation centre, and others fear repatriation.

The Committee for foreign minors has records of all existing separated children: this helps keep track of their movements at the national level, although it is not enough.

To tackle the problem of children leaving accommodation centres, the Turin Council has created a “protected accommodation centre for exploited children”, in which separated children can be placed for up to 60 days with no possibility of leaving without being accompanied by a care worker. During this length of time, the child is identified and investigations in Italy and in his home country are carried out. At the end of this time, some children are repatriated, some are entrusted to their parents or other relatives found in Italy, some are placed in different accommodation centres.

4.b) To what extent does this conform to the Statement? Please outline in brief.

The following may be considered “good practices”, consistent with the Statement’s recommendations:

- the Committee’s procedures regarding the registration of separated children (not seeking asylum);
- regulations according to which a residence permit be issued for every child, even if only on the basis of their age;
- regulations regarding the issuing of a permit for social protection to victims of exploitation and to those who have served a disciplinary sentence.

The following are negative features:

- delay in the issuing of a minor’s residence permit due to the non-appointment of a guardian;
- delay in the registration of asylum applications and in the issuing of the related permit for asylum application because of the non-appointment of a guardian.

4.c) Are any changes needed? In relation to any first principle?

Police authorities should issue children with a residence permit and register applications for asylum also prior to the appointment of a guardian, as a means of protection for the child.

In addition, the problem of children leaving accommodation centres should be tackled. However, coercive measures should be avoided, and preference given to those that allow for :

- the creation of a relationship of trust with children;
- the offer of serious integration processes, granting job opportunities and the possibility of staying in Italy even after the age of 18;
- the offer of “light” and not too harsh reception measures, closer to children that have been living in the street;
- an efficient fight against criminal organisations that exploit children.

5. AGE ASSESSMENT (SGP: C5)

5.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

a) Regulations/Laws

Italian law does not provide when and how age assessments must be carried out.

Committee for foreign minors’ guidelines provide that age assessment must respect the child’s dignity and health and that the benefit of the doubt should be given.

b) Practice

Youngsters over 18 may sometimes declare to be under age in order to receive children’s benefits; vice versa, girls exploited by prostitution sometimes have false documents or declare to be over 18.

No age assessment is carried out in the case of minors who are obviously under 18. When authorities are in doubt, in some cities, the police require an age assessment, whilst in others this does not take place. It is, however, a quite rare procedure.

Age assessment generally includes the examination of physical factors by means of a wrist or teeth X-ray.

Parameters taking the child's origin into account, such as skeletal development, are often not applied. Therefore, for children that come from countries where adolescents develop faster (Morocco, for example), there is a strong chance of overestimating age.

Moreover, range of error is often not considered and an estimate of the child's age is used as exact data, without giving the child the benefit of the doubt.

Finally, age assessment is generally an examination forced upon the child and, in some cases, it is carried out without the guardian's consensus.

5.b) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not respected in different ways: parameters that take into account the child's origin are not applied, age estimates are used as exact information and the benefit of the doubt is often not given to children. They are examinations forced upon children which may harm their health (as in the case of X-rays).

5.c) Are any changes needed? In relation to any first principle?

The above points should be reviewed.

6. DETENTION (SGP: C6)

6.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

1) Children not seeking asylum (not at the point of entry)

a) Regulations/Laws

Immigration and asylum law provides that immigrants who have been served an expulsion order can be held in detention centres.

However, according to the same law, children cannot be expelled, except for reasons related to public order and State security, or to the right of the child to follow a parent or foster person who has been expelled.

b) Practice

To the best of our knowledge, separated children are not held in immigration detention centres prior to expulsion.

2) Children seeking asylum

At present children seeking asylum are not detained.

The new immigration and asylum law has, nevertheless, introduced the possibility of detaining asylum seekers in Identification centres or in Temporary assistance and detention centres in the following cases: to assess the applicant's identity if he/she is lacking the appropriate documents; to assess the elements on which the application is based; under legislation regarding recognition of the right to be granted entry to State territory; if the applicant has been stopped after evading border control, or is an illegal resident, or has been served an expulsion or return at the point of entry order.

The law, approved in 2002, pertaining the part on asylum is not yet in force: it will be so after the issuing of the rule for the enforcement of the law.

There is concern that detention may be applied in almost all cases.

According to the proposal of the rule for the enforcement of the law submitted by the Cabinet (reserved), it seems that asylum applicants will not be able to leave the centres (which should, therefore, be considered true detention).

Moreover, according to the law, separated children are not protected from detention, and have no right to specific protection measures during detention.

3) Border procedures

a) Regulations/Laws

Immigration and asylum law prohibits expulsion of children, however, it does not prohibit return at the point of entry. Therefore, if a child reaches a point of entry without the necessary requirements for entry and is stopped upon entry or shortly after, he/she can be held in a detention centre until he is returned.

b) Practice

Children that are stopped after landing on Italian coasts are often kept – at least temporarily – in detention centres together with adults and, in general, with no specific measures for their protection.

6.b) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations according to which separated children should never be detained for reasons related to their immigration status is adequately respected for children not seeking asylum who are in Italian territory. It is not respected for children at the point of entry, and it is likely not to be respected for those seeking asylum and for exploited children.

6.c) Are any changes needed? In relation to any first principle?

Immigration and asylum law or, at least, the rules for enforcement of the law should order that separated children seeking asylum and children stopped at points of entry should not be held in detention centres (identification centres or temporary assistance and detention centres).

Moreover, the problem of exploited children leaving accommodation centres should not be tackled with coercive measures such as detention.

7. RIGHT TO PARTICIPATE (SGP: C7)

7.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

A) The status determination process:

1) Children not seeking asylum:

a) Regulations/Laws

Legislation orders that the child be heard during the status determination process, where decisions on repatriation or stay in Italy are made by the Committee for foreign children [ref. par. "Family Reunification and Returns to a Country of Origin"].

As previously stated, the form sent to the Committee has to contain the following information: when and by whom the child was interviewed on issues regarding all initiated procedures; reasons for the child leaving his home country and choosing Italy; concern, if any, expressed by the child regarding repatriation; child's knowledge of the possibility of applying for asylum.

The law provides that the child be heard on issues regarding repatriation not directly by the Committee or by a judge, but by the Social Services of the Council where he has been placed. The fact that the body making the decisions regarding repatriation (i.e. the Committee) has no opportunity of listening to the child, clearly, limits full respect of the right to participate.

Moreover, as Social Services are responsible (also financially) for children's reception, it is likely that they will try to minimise the number of separated children they accept in their area of jurisdiction: as a consequence it is likely to interpret the views of the child as accepting repatriation. There is no ruling that the guardian be heard by the Committee or by other institutions during procedures.

Finally, there is no legislation stating that the child's opinion on return should be taken into serious consideration (in accordance with his/her age and maturity) during decision-making.

b) Practice

Separated children are, in general, heard in matters regarding their views on repatriation. Children, nearly always, refuse the idea of returning to their home country.

However, the Committee does not consider children's views noteworthy: Committee representatives have, more than once, stated that children's views are not significant, due to them being minors, and to the fact that many children lie, etc.

2) Children seeking asylum

a) Regulations/Laws

During the refugee determination process all asylum applicants have the right to be heard by the Central Commission, namely the body that decides on matters regarding asylum applications (under the new law, that will shortly come into force, the Commission will be taken over by Territorial Commissions).

Children applying for asylum have the right to be heard both during procedures at police stations and during the interview at the Central Commission; there are no limits regarding children's age because of which they cannot be directly heard but need the mediation of a guardian.

The child has the right to use his own language during the hearing. If necessary, an interpreter must be provided.

b) Practice

Children are heard both when applying for asylum at police stations and during the interview at the Central Commission.

In general (although not always), an interpreter is provided during application procedures with police authorities, and is always provided during the interview at the Central Commission; however, the interpreter does not always know the child's language, and English or French are often used.

B) Procedures for "care decisions"

a) Regulations/Laws

The law provides that the child has the right to be heard on matters regarding guardianship, fostering, adoption, over a certain age (16 years for guardianship, 12 years for fostering and adoption).

However, the child does not have the right to be heard on matters regarding the choice of the accommodation centre he/she will be placed in, education, training, etc.

b) Practice

The choice of the accommodation centre is nearly always made according to availability and to the policies of local authorities, and, in general, the child has no say in the choice.

Procedures vary according to the accommodation centre or to Social Services for matters concerning education, training, hobbies, etc.: some may ask the child which training courses he/she would like to attend, which activities he/she prefers, others might not.

7.b) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not fully respected in matters concerning children not seeking asylum, in particular, when decision on repatriation are made.

7.c) Are any changes needed? In relation to any first principle?

The following is necessary:

- children's views on repatriation must be heard by the Committee for foreign minors (similarly to the interview of asylum seekers at the Central Commission) or, at the local level, by an independent body which could be the Minor's Court; this would also ensure that children applying for asylum have proper access to asylum procedures;
- the guardian's views on repatriation must be heard;
- the Committee must take children's views into consideration (in accordance with their age and maturity) when deciding upon repatriation matters;
- the child must be heard on issues regarding the choice of the accommodation centre, education, training, work, etc.

8. FAMILY TRACING & CONTACT (SGP: C8)

8.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

1) Children not seeking asylum

a) Regulations/Laws

According to the regulations in force, every separated child must be notified to the Committee. Within 60 days, the Committee has to start investigations to identify the child's family or to verify the disposition on behalf of authorities in the child's country of origin to accept custody of the minor after repatriation.

The Committee can contact national and international organisations, public offices, and diplomatic authorities when carrying out investigations.

Conventions concerning family and repatriation investigations have been signed with seven NGOs: a convention has been in place since 1997 with the International Social Service for children coming from Albania, then extended to Morocco, Moldavia, Romania; a similar convention was set-up between 2001 and 2003 with ICS for investigations in Albania, Romania, Moldavia, Macedonia, Bosnia, Serbia, Kosovo; in 2001 conventions for investigations and repatriation were signed with AIBI, CEFA, ENGIM, LVIA e VIS, for different countries (the convention with AIBI, for example, focuses on Albania and Morocco, the one with VIS on Albania).

With the exception of the International Social Service, all the other organisations are NGOs working on international development projects.

Conventions with these organisations establish: family investigations to be carried out in the country of origin; technical logistics of the journey; the child's placing in care upon arrival and escorting to the family; the inclusion of repatriated children in integration projects.

Conventions with the International Social Service and the ICS have set a target of 2000 investigations and 200 repatriations to be carried out in two years; the other conventions have agreed to a lower number of investigations and repatriations.

b) Practice

Once the child has been notified to the Committee, the latter furnishes information to one of the associated NGOs, and the NGO's Italian office then sends a request for investigation to the child's home country.

NGO staff in the country of origin should contact and meet the family more than once, and try to assess the family's general situation, and, in particular, identify serious problems that might hinder repatriation (ill-treatment, abandonment, significant physical or mental disabilities, judicial problems, alcoholism, family feuds, major economic problems, etc.). Staff should then give the family a description of the child's situation in Italy, and talk about the child's repatriation, trying to understand what measures could be taken to facilitate the child's reintegration.

A number of significant difficulties characterise family investigations in countries of origin.

Firstly, collecting correct and sufficient information to contact the family is difficult: children often give false information to avoid repatriation. Moreover, many families have no telephones, and finding the exact address is sometimes very difficult (especially in cases where families have emigrated to city suburbs).

Once the correct information regarding the family's residence has been collected, the organisation must then contact the family. The best solution is for staff to personally visit the family's home, so as to evaluate the living conditions into which the child will be reintegrated; alternatively, the family can be contacted (via mail or telephone) and then invited to come to the NGO office: however, this method not only provides a very superficial assessment, but it also, sometimes, is unproductive as families may refuse to attend the meeting.

Visiting the family at home is sometimes impossible due to the poor roads in many areas, in particular when families live in remote mountain villages or in cities that are distant from the NGO office.

In addition to these "logistic" problems, there are other "relationship" problems. In most cases families do not want the children to be repatriated: if liaising with the NGOs is perceived as opening the way to repatriation, the family will try to avoid interviews, demonstrating fear and diffidence during meetings, and will not collaborate. In some cases, the family might even go as far as to threaten the NGO if it tries to return the child.

At present, investigations in Albania are faster than before, thanks to the experience of the International Social Service and to increased investments in terms of a higher number of NGOs and NGO staff. In other countries (Morocco for example), however, procedures are still lengthy and often unsuccessful.

It should be stressed that, in addition to family investigations carried out by NGOs, various accommodation centres and some Social Services encourage the children to renew and maintain relationships with their families, taking care of telephone expenses, helping the child visit his family during the summer (in some cases, accommodation centre workers might accompany the child to visit his/her family and get an idea of the environment he/she comes from), and, in very few cases, helping the parents come to Italy.

It seems that the majority of children placed in accommodation centres maintain quite strong contacts (via telephone or mail) with their families.

2) Child victims of trafficking

Specific programmes regarding investigations and repatriation for both adult and child victims of trafficking exist. The International Organization for Migration manages one of these programmes.

3) Children seeking asylum

There are no procedures for the tracing of family members of children seeking asylum, as these could endanger the family.

Due to the above, it is very important for the relevant bodies (Police, Council, Committee, Minor's Court, etc.) to verify and to exclude, beyond any reasonable doubt, that children, who have not formally applied for asylum, have a real fear of persecution in their home country and, therefore, have a right to international protection via the appropriate asylum procedures. The verification should be promptly executed and should take place before contacting authorities in the country of origin.

8.b) To what extent does this conform to the Statement? Please outline in brief.

The Italian Government has implemented a system of family investigations with extremely positive features.

The fact that investigations and reintegration programmes are carried out by NGOs that have experience in working in the countries of origin – as social service (International Social Service), or as development agencies (other associated NGOs) – and are therefore familiar with the territory, has contributed to the significant improvement in the quality of the programmes.

The Statement's recommendations are adequately respected for Albania. They are not respected for countries such as Morocco or Rumania, and, mostly, for countries in which there are a low number of separated children (e.g. sub-Saharan or Asian countries): in these cases investigations are either lengthy or unsuccessful.

8.c) Are any changes needed? In relation to any first principle?

Family investigations should be improved in all main countries of origin, following the good experience developed in Albania.

9. FAMILY REUNIFICATION IN A EUROPEAN COUNTRY (SGP: C9)

9.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

The Dublin Convention rules in Italy. However, application of the Convention in practice is rare. This is also due to the fact that to apply the Dublin Convention the child must have presented a request for asylum and the procedure is often extremely lengthy. As a consequence, in situations where the child (although potentially entitled to international protection as a refugee) has parents living in another European Union country, the Convention is not technically applicable, and ordinary family reunification procedures are carried out.

9.b) To what extent does this conform to the Statement? Please outline in brief.

Family reunification is quite lengthy and difficult.

9.c) Are any changes needed? In relation to any first principle?

Family reunification should be facilitated.

10. INTERIM CARE - HEALTH - EDUCATION - TRAINING (SGP: C10)

Interim Care (SGP: C10.1)

10.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

a) Regulations/Laws

The legislation provided by Italian law on issues regarding the assistance and protection of children is applied to separated children.

Abandoned children (i.e. children that are completely alone, with no relatives or other adults) should be assisted and found suitable care placements as soon as possible.

Local authorities (generally Local Councils) are responsible (also financially) for the assistance of separated children, as is the case for Italian minors.

The child can be placed in an accommodation centre or a care institute, or he can be placed in a family.

There are no national regulations regarding structural or organisational requirements for accommodation centres.

When children are living with relatives within the fourth degree of relationship (siblings, uncles or aunts, cousins), Italian law does not require an assessment of the relative's ability to provide suitable care [ref. par. "Identification"].

b) Practice

In general, separated children are adequately received and placed upon arrival.

However, there are some cases in which, due to insufficient availability, children are not immediately placed, they are, therefore, added to waiting lists, and end up sleeping for long periods of time in abandoned factories and cars, etc; or might even be invited to go to other cities to be placed. Some Local Councils set a ceiling for the number of separated children that can be placed.

The majority of separated children are placed in accommodation centres; a few are entrusted to Italian families; whilst fostering by families of the child's nationality is rare.

The settings in which separated children are placed are very different according to the city and to the child's profile (age, specific problems, etc).

In most cities (Rome, Milan, Florence, etc.) separated children are placed in accommodation centres for minors. However, in other cities such as Turin and Genoa, some separated children are placed in reception centres for adult immigrants. In Turin, for example, younger children or children with particular psychological or health problems are placed in accommodation centres for minors, whilst children that are over 14 and with no particular problems are placed in reception centres for adult immigrants. This has extremely negative effects on children that find themselves living with adults, often in precarious situations, and with no substantial educational assistance or affection.

Placement in adult centres is primarily due to financial reasons: children's accommodation centres are, indeed, very expensive to run, and some local authorities have no intention of spending such amounts for the placement of separated children.

Children's accommodation centres are also extremely differentiated. Some are managed by professionals, others by volunteers. Some guarantee the presence of adults 24 hours a day, others only at night. Some recruit cultural mediators originating from the children's same countries, others do not. Some will receive only foreign children (in some cases, of the same nationality), others will

place foreign children together with Italians (children that have been abandoned by their families, or that have been abused, etc.).

To meet accommodation centre or social service requirements, children are often moved from one accommodation centre to another.

Children seeking asylum are generally placed in accommodation centres for minors, not in adult reception centres. In the context of the Piano Nazionale Asilo (National Asylum Plan) – a plan promoted by the UNHCR, the Associazione Nazionale Comuni d'Italia and the Ministry of Interior, with the aim of creating a national protection and placement system for those applying for asylum, and a system for assisting integration of refugees and people that have been issued residence permits for temporary protection/humanitarian reasons - two specific accommodation centres for the placement of children seeking asylum have been identified.

Children who are part of social protection programmes are, in some cases, placed in accommodation centres for minors, together with other children that are not involved in social protection; in other cases, they are placed in accommodation centres for foreigners under social protection, together with adult women.

In some accommodation centres, measures to allow the minor to maintain his own culture have been implemented (observance of eating customs, religion, the recruitment of cultural mediators, etc.). In others, these aspects are not considered at all, with extremely negative effects on the children.

Contacts with the child's ethnic community are, normally, not encouraged.

In general, staff have no specific training in the cultural, linguistic and religious needs of children (the understanding of these matters is therefore left to the personal sensitivity of care workers), nor do they have professional knowledge of issues related to trafficking.

10.b) To what extent does this conform to the Statement? Please outline in brief.

Although probably most of separated children that get in touch with authorities are adequately received, the Statement's recommendation are not respected in several ways:

- placement is not immediately guaranteed for all children;
- some minors are treated as "de facto" adults and placed in reception centres for adults;
- children are often moved from one accommodation centre to another;
- staff are not trained to understand cultural, linguistic and religious needs of children and the issues related to trafficking; moreover, contact with the child's ethnic community is not encouraged.

10.c) Are any changes needed? In relation to any first principle?

It is necessary for local authorities to:

- guarantee immediate placements for all separated children;
- guarantee adequate placement for minors: children should not be placed in adult reception centres;
- limit movements from one accommodation centre to another as far as possible;
- encourage training in issues related to the cultural, linguistic and religious needs of children and in those related to trafficking.

Health(SGP: C 10.2)

10.d) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

1) It is compulsory to register foreign children, entitled to a residence permit (including a permit “for minors”), with the National Health System. Foreign children have the right to access health care on an equal basis with Italian citizens.

In general, there are no problems in the application of the above.

On the other hand, foreign children who do not possess a residence permit cannot register with the National Health System. They, nevertheless, are entitled to care both with a general practitioner and in hospital for ongoing essential or urgent treatment, in the case of illness or injury, and have access to preventive medicine programmes.

The law therefore limits access to the National Health System: this is an extremely serious situation in cities where police authorities require the appointment of a guardian prior to issuing a residence permit, and where the Judge takes a long time to appoint a guardian. In these cases, the child is without a residence permit for lengthy periods and, as such, has no right to access health care on an equal basis with Italian citizens.

2) Children with serious psychological problems due to the impact of violence – mostly minors seeking asylum and those exploited by prostitution – are, in some cases, granted counselling; in other cases, this kind of assistance is poor.

10.e) To what extent does this conform to the Statement? Please outline in brief.

The Statement’s recommendations are sufficiently respected in matters concerning children with residence permits, they are not respected for irregular children; in addition, counselling is often poor.

10.f) Are any changes needed? In relation to any first principle?

The law should provide access to health care for all children, including those without a residence permit (similar to the regulations on access to education). Health care should offer increased opportunities for psychological assistance.

Education, Language and Training (SGP: C 10.3)

10.g) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

a) Regulations/Laws

All foreign children, even if without a residence permit, are obliged, just as Italian children, to attend statutory education (until the age of 15, and in any event, for 9 years) and, are obliged to attend training (i.e. they have to attend school or vocational training or a traineeship) until the age of 18.

Children with no residence permit have the right to be enrolled in a school, and this includes any kind and grade of schooling (not only statutory education).

The enrolment of foreign children is carried out in accordance with the procedures and conditions regulating enrolment for Italians, and can be requested at any time during the academic year. Foreign children lacking personal documentation are enrolled with reservations, but may be awarded a certificate upon conclusion of their studies, for any kind or grade of schooling.

However, only foreign minors in possession of a residence permit can enrol in and be awarded certificates for vocational training.

b) Practice

In general, all children under 15 that are placed in accommodation centres are enrolled in school. For varying reasons many children over 15 are also enrolled: they, sometimes, have not attended school for a period of 9 years in their home country; due to the obstacles for the recognition of academic qualifications, they have no documents to back their word; or they have to learn Italian. A part of these children are enrolled in “normal” secondary schools, others attend literacy courses or courses for secondary school diploma at the Centri Territoriali per l’Educazione Permanente (Territorial Centres for Permanent Education), which are responsible for teaching Italian to foreigners.

Many youngsters are also enrolled in professional training courses that become an important tool, useful when looking for a job. Moreover, they have access to scholarships and traineeships, etc. Both schools and vocational training centres are open to receiving minors, and there are normally no problems.

A very important aspect is for children to be motivated when approaching education and training: indeed, the majority of separated children come to Italy mostly to earn money, and to acquire a residence permit. Therefore, initially minors do not want to attend school or training courses as this delay the possibility of their working.

When minors understand that being part of an educational process will help them to eventually find a job and enjoy a regular life in Italy (especially when issued with a residence permit renewable at 18), the majority decide to attend school with commitment.

There is also a significant number of minors, in particular those who are exploited by drug trafficking, prostitution and begging etc., not attending school.

Assistance for learning Italian is available in a few schools, and depends strongly on teacher’s initiative and motivation, and on local funding.

At present, there are hardly any opportunities to preserve and/or learn the minors’ mother tongue.

10.h) To what extent does this conform to the Statement? Please outline in brief.

Italian legislation fully, and in an open and flexible manner, guarantees access to schooling. It can be considered as a model for the protection of the right to education for separated children.

However, assistance for teaching Italian and for preserving the children’s mother tongue is still meagre.

The impossibility of enrolling children lacking residence permits in professional training courses is a problem.

In fact, the adequate protection of the right to education is not hindered by the legislation governing access to education or schooling. Indeed, problems concerning integration and protection systems for separated children (integration policies on the possibility of working and obtaining a residence permit even after the age of 18, protection policies for exploited children, etc.) seem to represent the main obstacles.

10.i) Are any changes needed? In relation to any first principle?

Schools should guarantee assistance for learning Italian and for preserving the mother tongue language.

The possibility of enrolling minors lacking a residence permit in professional training courses should exist.

11. REFUGEE DETERMINATION PROCESS (SGP: C 11)

Structured legislation on asylum in Italy is still missing.

The new immigration law, approved in 2002, contains a number of norms that significantly modify the present asylum process; however, as the part concerning asylum is not yet in force (it will come into force after the issuing of the rules for the enforcement of the law) we can only refer to the present law for comments on its practical application.

Access to normal procedures (SGP: C11.1)

11.a) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

Separated children, regardless of age, have the right to claim for asylum.

There are however two major problems affecting the proper access of separated children to the refugee determination process.

The first concerns the child's right of applying in person for asylum. A minor can carry out a juridical act, in this case he/she can claim for asylum via an application, only if legally represented; therefore, separated children can apply only through their guardian. This causes serious obstacles when guardianship procedures are very prolonged.

The second problem is lack of information: the majority of minors with a potential interest in making an asylum application, who should be entitled to international protection, are, in general, not adequately informed by the police or by other authorities on the right to asylum or on the possibility of accessing procedures. As a consequence, they practically have no access.

At present, no alternative procedures have been applied in Italy. However, the immigration and asylum law approved in 2002 (not yet in force) has introduced a "simplified procedure" for asylum applications made by: immigrants stopped after having jumped border control; illegal immigrants; immigrants who have been served an expulsion or return at the point of entry order.

The law does not provide specific protection for children. Therefore, applications made by separated children who fall into the same categories as those mentioned above could be examined according to the "simplified procedure".

11.b) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not adequately respected. In most cases, children do not have proper access to the refugee determination process.

In addition, according to the new law, children are not always granted the normal procedure and exempted from alternative simplified procedures.

11.c) Are any changes needed? In relation to any first principle?

The following is necessary:

- a solution to the problem related to the minor's right of applying in person for asylum: the guardian should be quickly appointed or police authorities should accept the application prior to the appointment of a guardian;
- children should be given all the necessary information to decide on the options of applying for asylum and should be put in the position to do so: it is, therefore, compulsory for border authorities and care workers to be adequately trained on these issues and for them to inform the children accordingly;
- future asylum legislation or, at least, the rule for the enforcement of the new immigration and asylum law provides that protection norms for children must exist, and, in particular, that the "simplified procedure" cannot be applied to minors.

Legal Representation (SGP: C 11.2)

11.d) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

Guardians are the legal representatives of separated children in asylum procedures.

The guardian assists the child when he/she applies for asylum, during the interview at the Commission, and during possible appeals.

Guardians are not trained on asylum procedures or in understanding child-specific forms of persecution.

11.e) To what extent does this conform to the Statement? Please outline in brief.

In the context of the Statement's recommendations, the training of guardians is inadequate.

Moreover, all the problems related to the appointment of a guardian interfere with asylum procedures [ref. par. "Appointment of guardian or adviser"]

11.f) Are any changes needed? In relation to any first principle?

Guardians should be trained on issues related to the asylum or refugee determination process.

Minimal Procedural Guarantees (SGP: C 11.3)

11.d) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

The present law provides that decisions concerning asylum applications should be taken by the Central Commission in charge of the refugee determination process, a central body formed by officers of the Presidency of the Cabinet, the Ministry of Foreign Affairs and the Ministry of Interior, and, on a consultative basis, by a representative of the UNHCR.

The new 2002 law (not yet in force) provides that Territorial Commissions will decide on asylum and refugee determination. The Commissions will be nominated by a Ministry of Interior decree and formed by a state police officer, a representative of the territorial authority, a representative of the UNHCR, and, possibly, by a representative of the Ministry of Foreign Affairs.

Members of the Central Commission have not received adequate training on issues regarding children's rights and child-specific forms of human rights violations (recruitment of children into armies, etc.).

At present, the legislation provides that police authorities forward asylum applications to the Central Commission within 7 days. The Commission then decides within 15 days. The new law (not yet in force) provides that police authorities forward asylum applications to the Central Commission within 2 days. The Commission should then prepare for and hold the interview within 30 days and make a decision in the following 3 days (on the basis of normal procedures).

The above, however, does not occur in practice. Both police authorities and the Commission are slow: it can take months, even more than a year, for the Commission to make a decision on asylum applications.

There are no regulations whereby the Commission should give priority to applications made by separated children.

If, however, the case is notified to the Commission by the UNHCR and/or by the organisation taking care of the child, priority is given.

At present, asylum seekers who receive a negative first decision have a right to appeal by an adequate deadline (at least two months) and the Court can decide that the asylum seeker is allowed to stay pending its outcome.

The right to an effective remedy in the case of a negative first decision has been seriously threatened by the new law. The latter provides that an applicant who has received a negative decision may request a review of the decision to the Territorial Commission within 5 days and can thereafter appeal to the Court within 15 days.

Filing an appeal, however, does not automatically exclude return: the applicant can, therefore, be returned prior to the decision regarding his appeal.

At present, there are no special protection measures for separated children.

11.h) To what extent does this conform to the Statement? Please outline in brief.

The prevailing law, and especially the new 2002 immigration law, do not respect the Statement's recommendations:

- members of the institutional body responsible for making decisions on asylum matters are not always competent on issues concerning asylum and children's rights;
- separated children's applications are not automatically given priority;
- decision-making often takes a very long time;
- deadlines for lodging an appeal are too tight and filing appeals does not interrupt return procedures.

-

11.i) Are any changes needed? In relation to any first principle?

The following is necessary:

- staff of the Territorial Commissions for the determination of refugee status should receive adequate training in issues concerning asylum and children's rights;
- measures to guarantee that separated children's applications will be given immediate priority should be adopted;
- decisions-making should be quicker;
- immigration and asylum law should be amended: asylum applicants who have received a negative first decision should have a right to protection in terms of looser deadlines for lodging an appeal; in addition, appeal should interrupt return procedures;
- measures to guarantee that the child will not be returned until a final decision regarding his/her asylum application is made (including re-examination and/or appeal); and, that if a separated child receives a definitive negative decision, the Committee for Foreign Children or the Minor's Court will decide upon repatriation.

Independent Assessment (SGP: C 11.4)

11.j) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

An independent assessment of the child's ability to express a real fear of persecution, and of the difficulties he/she might have in talking about painful events, etc. is never required.

11.k) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not respected.

11.l) Are any changes needed? In relation to any first principle?

The possibility of carrying out an independent assessment should exist.

Interviews (SGP: C 11.5)

11.m) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

Asylum applications are put on record at police stations and the Commission then convenes the applicant for interview.

There are no regulations or guidelines for the interviewing of children by police officers or at the Commission, and officers do not receive specific training. In practice, however, separated children are interviewed in a child-friendly manner: officers do their best to minimise discomfort and psychological stress. Generally application procedures with police authorities are also not intimidating.

Applications are registered only after the appointment of a guardian, and the guardian or a representative of the guardian (generally an accommodation centre worker) must attend the procedure.

The guardian or a representative must attend the interview at the Commission.

The possibility of providing testimony through different means such as drawings, video recorded interviews with independent experts, etc., is still not available, although it is not excluded.

11.n) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are not fully respected.

11.o) Are any changes needed? In relation to any first principle?

Specific procedures for the interviewing of children, based on the Statement's recommendations, should be put in place.

Criteria for making a decision on a child's asylum application (SGP: C 11.6)

11.p) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

The Central Commission makes decisions regarding asylum applications on the basis of the Geneva Convention. If the applicant is granted refugee status, he/she receives a residence permit “for asylum”.

If the Commission considers the applicant’s requirements insufficient for the granting of refugee status, but he/she cannot be returned, according to the Conventions ratified by Italy, and, in particular, according to the European Convention for the protection of human rights and all fundamental freedoms, the Commission can recommend that police authorities issue a residence permit for humanitarian/temporary protection reasons.

When making decisions regarding asylum applications presented by separated children, the Central Commission does adopt a different, more sensitive approach to that used for adults. However, it does not systematically apply the UNHCR guidelines, and it does not always have greater regard to “objective factors”, such as: the age and maturity of a children and their stage of development; the fact that children may behave differently to adults when showing their fears; the possibility that children will have limited knowledge of conditions in their countries of origin; child-specific forms of human rights violations, such as recruitment of children into armies, trafficking for prostitution, female genital mutilation and forced labour; the situation of the child’s family in the country of origin and, if known, the views of the parents who have sent their child out of the country to protect him/her.

11.q) To what extent does this conform to the Statement? Please outline in brief.

The Statement’s recommendations are not systematically respected.

11.r) Are any changes needed? In relation to any first principle?

The Central Commission and, with the new law, the Territorial Commissions for the determination of refugee status should formally adopt and systematically apply the UNHCR guidelines.

Young People who become adults during the asylum process (SGP: C 11.7)

11.s) Please describe:

- relevant law and policy in your country
- relevant practice in your country

As legislation does not order specific protection measures for children applying for asylum, there are no particular changes at the age of 18.

11.t) To what extent does this conform to the Statement? Please outline in brief.

11.u) Are any changes needed? In relation to any first principle?

12. DURABLE SOLUTIONS (SGP: C 12)

Remaining in a Host Country or Country of Asylum (SGP: C 12.1)

Grounds for a child remaining in a host country (SGP: C 12.1)

12.a) Please describe:

- relevant law and policy in your country
- relevant practice in your country

According to Italian laws minors cannot be expelled from the host country (with the exception of public order or state security reasons, or if the child wants to follow a parent or carer that has been repatriated). Due to the above, a separated child can stay in Italy until the Committee for Foreign Children has decided, on the basis of investigations in his/her country of origin, that the child should be repatriated in his/her best interests. [ref. par. “Family Reunification and Returns to a Country of Origin”].

The child may be recognised different kinds of status:

1) Children not applying for asylum:

- a) If the Committee has decided, on the basis of investigations in the child’s country of origin, that the child should not be repatriated and that staying in Italy is in his/her best interests, the child can be issued with a residence permit for fostering reasons (following a ruling for fostering). This kind of residence permit gives the minor permission to work, and be converted into a study or employment permit upon turning 18.
- b) If a foreign citizen legally residing in Italy has been appointed foster person for a child, and the child is living with him/her, the minor can be issued with a permit for family reasons. This kind of permit authorises the minor to work, and can be converted into a study or employment permit upon turning 18. This regulation, however, is very rarely applied by the Police authorities.
- c) Children that are severely exploited, and those that have served a sentence for crimes committed as minors, and have been placed in integration programmes, can be issued with a residence permit for social protection reasons. This kind of permit authorises the minor to work, its validity is not connected to age (it, therefore, does not expire when the minor becomes an adult), and can be converted into a study or employment permit [ref. par. “Trafficking”].

2) Children applying for asylum:

- a) If a child is granted refugee status, he/she receives a residence permit for asylum reasons. This gives the child permission to work and its validity is not connected to age (it, therefore, does not expire when the minor becomes an adult).
- b) If the child has not been granted refugee status, but cannot be repatriated, he/she can receive a residence permit for humanitarian/temporary protection reasons. This gives the minor permission to work, lasts for a year, and does not automatically expire when the he/she becomes 18. It can be renewed if the reasons for its initial issuing remain (situation in the country of origin, the child’s psychological and physical condition in relation to the situation in his/her home country, etc.).

12.b) To what extent does this conform to the Statement? Please outline in brief.

The Statement’s recommendations are partly respected for matters concerning children applying for asylum.

As for children not applying for asylum, the main problems are due to the fact that “long-term solution” are, in most cases, not adopted: the Committee for Foreign Minors takes a long time to make decisions, and has, until now, decided for very few children to stay in Italy (between 2000 and 2001 it has taken a “non-repatriation” decision for less than 1% of all identified children). All other children are in a condition of provisory status and have to wait for the Committee’s decision. They have a permit “for minors” that, according to a Ministry of Interior ruling, does not give them permission to work and cannot be converted in another kind of permit at the age of 18 [ref. par. “Integration” e par. “Family Reunification and Returns to a Country of Origin”].

12.c) Are any changes needed? In relation to any first principle?

Decisions on whether children should remain in Italy should take less time.

Police authorities should apply the regulation according to which the minor be granted a permit for family reasons if he/she is living with a foreign citizen, legally residing in Italy, that has been appointed foster person for the child.

Family Reunification in a Host Country (SGP: C 12.1.2)

12.d) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

According to immigration and asylum law, if a parent can provide, a year after entry, the income and accommodation requirements necessary to meet family reunification criteria, he/she can be reunited with the child that is legally residing in Italy.

We are not aware of cases in which this norm has been applied.

This is probably due partly to the fact that children and their families have no knowledge of this regulation; and partly to the fact that many children and their families do not want reunification in Italy.

In addition, according to the law, due to serious problems related to the child's psychological and physical development, the Minor's Court can authorise a family member to enter the country, notwithstanding reunification regulations.

This extremely helpful norm is applied in practice: there have been cases in which a parent has been authorised entry or has been issued with a residence permit even after illegal entry.

12.e) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are adequately respected in theory; however, they are not adequately respected in practice.

12.f) Are any changes needed? In relation to any first principle?

The following is necessary:

- children and their families should be made aware of reunification regulations;
- the Minor's Court should more often apply the policy according to which, if a child has serious problems related to physical and psychological development, his/her parents be authorised entry and permission to stay in the host country.

Integration (SGP: C 12.1.3)

12.g) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

On issues concerning reception, the right to access health services and education, reference must be made to the paragraph "Interim care", "Health" and "Education".

One of the main problems concerning integration for separated children is their residence permit. Until the end of the 1990s, separated children entitled to guardianship or fostering as a result of a judicial ruling, were issued with a residence permit, which authorised them to work and could be converted into a permit for employment reasons at 18.

This regulation put authorities and workers in the position of offering minors an “agreement of trust”: if the child accepted a legal integration channel, he/she would be offered a real possibility of regular integration into Italian society.

The above policy had exceptional positive effects on minors: a significant number of separated children attended school or professional training courses, they found jobs, built relationship of trust with care workers, they avoided illegal activities, and became independent thanks to a job and autonomous accommodation. In addition, they often managed to send money home, which, undoubtedly, has contributed to developing and strengthening their self-esteem.

According to a research carried out on a sample of 237 separated children notified to the International Social Service, who became adults during 2000, and were received in different Italian regions, 72,6% had been issued with a residence permit for employment at 18. Data, therefore, reveals a significant level of integration amongst these minors¹.

This situation completely changed in 2000: a Ministry of Interior ruling decided that permits “for minors” do not give children permission to work (whilst national minors can work after the age of 15 and after having attended statutory education), and cannot be converted in another kind of permit at 18. According to this regulation, a minor who has just become an adult (even if attending school or with a job), will be deprived of his/her permit and become an illegal immigrant, liable to be expelled from the country.

If the Committee decides that the child not be repatriated, only in this case can he/she be issued with a permit for fostering reasons which will give the minor the possibility of working and which can be converted into a permit for study or employment reasons at 18.

The Committee, however, is extremely inefficient (as stated above, between 2000 and 2001 it has taken a “non-repatriation” decision for less than 1% of all identified children), and nearly all separated children keep their permit for minors until they reach the age of majority, and then become illegal immigrants (between 2000 and 2001, approximately 8.000 minors have become adults without receiving any decision, and therefore have become illegal immigrants).

As children with permits for minors can no longer work, they cannot participate to the integration channels mentioned above: they cannot attend school or vocational training, or find employment in the future.

Moreover, children know that when they turn 18 they will automatically be returned. This has deprived them of any perspective of integration.

These new regulations have made the mentioned “agreement of trust” impossible to achieve, and have had extremely negative results. The number of children that remain in illegal status (without a residence permit), marginalised, exploited, and/or involved in illegal activities has significantly increased. Before, separated children used to spontaneously go to Social Services or, if placed in accommodation centres, they would accept rules to achieve integration (they would attend school, or professional training courses, or they would regularly work). Now, many children prefer an illegal status or, if placed in an accommodation centre, they leave after a very short period. An increasing number of minors ends up working illegally, or involved in marginal activities (street selling, begging, washing car windscreens at traffic lights, etc.), or exploited by those involved in activities such as drug trafficking, theft, or prostitution.

¹ Servizio Sociale Internazionale Sezione italiana, Istituto Psicanalitico per le Ricerche Sociali, “I minori albanesi non accompagnati – Una ricerca coordinata fra Italia e Albania”, Roma, 2001

In order to tackle this difficult situation, the new 2002 law on immigration and asylum has decided that minors with all the following characteristics be issued with a permit for study or employment reasons at the age of 18:

- having not been ordered to repatriate by the Committee;
- having been in Italy for at least 3 years (have entered Italy before the age of 15);
- having been involved in a social and civil integration programme managed by a public or private institution with specific features for at least 2 years;
- attending school courses, or working, or having an employment contract;
- having accommodation.

This regulation has somewhat improved the situation, as a number of minors do have the above requisites, and will be issued with a permit.

However, the majority of separated children within the Italian territory have entered the country after the age of 15, and, according to the new law, will not receive a permit when they turn 18.

Most important is that the new law will probably have devious effects: if children know that the only possibility of legally remaining in Italy is linked to them having entered the country before the age of 15, they will be encouraged to emigrate to Italy as young children, with serious consequences on the protection of children's rights.

Finally, it should be stressed that immigration law provides that fostered children be granted a permit at the age of 18, and that, according to the interpretation of a 2003 Supreme Court ruling, the same measure should be applied to minors with guardians, notwithstanding the Committee's decision or the child's date of entry.

This norm, however, is often not put into practice. Indeed, police authorities apply the 2000 Ministry of Interior ruling, and often grant residence permits upon turning 18 to children with permits for minors, only if they meet the criteria set by the new law.

12.h) To what extent does this conform to the Statement? Please outline in brief.

Prevailing legislation severely hinders integration for separated children, and violates the principles of "the child's best interests" and of non-discrimination.

12.i) Are any changes needed? In relation to any first principle?

An amendment of the immigration law is necessary. Indeed, children with permits for minors should be able to:

- be employed on an equal basis as available to national children;
- be granted a permit for study, employment or humanitarian reasons at 18 years of age, if they can demonstrate participation in an integration programme (schooling, training, employment, etc.) or if they are living in particularly vulnerable situations, notwithstanding the Committee's decision and the child's date of entry.

In addition, police authorities should apply the norm according to which children fostered or with guardians be granted with a permit for study or employment reasons at 18, notwithstanding the Committee's decision and the child's date of entry.

Adoption (SGP: C 12.1.4)

12.j) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

a) Regulations/Laws

Italian law on adoption is applied to abandoned foreign minors.

Before adoption can be taken into consideration, regulations provide that the Minor's Court summon the parents to set their duties concerning the child's keeping, education and instruction. If the parents reside abroad, as is the case with separated children, the consulate carries out these duties.

If the child is over 14 years of age, he/she has to consent to adoption; if he/she is more than 12, his/her views have to be heard.

b) Practice

In general, it is very difficult for teenagers to be adopted: as most separated children in Italy are between 15 and 17, cases of adoption are rare.

In addition, as many minors keep strong contacts with their families, adoption does not represent a suitable option.

Finally, some separated children come from countries where adoption is forbidden (as Morocco, for example).

12.k) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendations are adequately respected.

12.l) Are any changes needed? In relation to any first principle?

Identity and Nationality (SGP: C 12.1.)

12.m) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

In general, Italian citizenship is based on the *ius sanguinis*, i.e. individuals with at least one Italian parent are considered Italian citizens.

Legislation concerning citizenship, however, sets a number of measures to acquire Italian citizenship. Amongst these are the following:

- adoption: a foreign minor who is adopted by an Italian citizen acquires nationality;
- birth and residence in Italy: a foreigner who is born and legally resides in Italy with no interruption until 18 years of age, who wants to acquire Italian citizenship, may do so within his 19th birthday;
- naturalisation: a foreigner may apply for citizenship on the basis of naturalisation after having legally lived in Italy for 10 years. If the person has been identified as stateless or as a refugee, he/she has to wait 5 years instead of 10. Citizenship for naturalisation reasons is granted in accordance with government decisions.

We are not aware of separated children who have acquired Italian citizenship.

12.n) To what extent does this conform to the Statement? Please outline in brief.

The Statement's recommendation according to which separated children who are identified as stateless, be assisted to acquire nationality is not fully respected. A stateless child can apply for citizenship only after 5 years, the outcome heavily depends on authority decisions, and citizenship very rarely granted.

12.o) Are any changes needed? In relation to any first principle?

Legislation on citizenship should be amended to make it easier for foreigners to acquire nationality.

Family Reunification and Returns to a Country of Origin (SGP: C 12.2)

Voluntary return (SGP: C 12.2.1)

12.p) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

Legislation on asylum and immigration provides that minors not be expelled from the country, with the exception of public order and state security reasons (in this case, the Minor's Court, not the Police has to order repatriation), or to follow a parent or a foster person that has been expelled. Minors can, however, be returned to their country of origin by means of "assisted repatriation".

"Assisted repatriation" is defined by the regulation as "all the measures adopted to guarantee the best necessary assistance to the minor until reunification with his/her family or until the child is entrusted to the authorities in charge in the country of origin", and this procedure "should be aimed at guaranteeing the child's right to family unity".

Assisted repatriation is founded on completely different grounds to those of expulsion. Expulsion is a procedure executed to punish foreigners who have entered and are residing in Italy in an illegal manner, and should be adopted with no discretion. On the contrary, repatriation is adopted only in the child's best interests, when its implementation is considered necessary, and following a detailed evaluation case by case.

Furthermore, repatriation is implemented only after a thorough assessment of the environment the child will find in his/her home country, whilst expelled adults are simply sent back to their countries, and no attention is paid to the condition they may find (with the exception of cases in which the adult may be persecuted).

The practical execution of repatriations also differs to that of expulsion, as the minor is escorted to the family or to the authorities in charge.

Another difference is that expulsion forbids entry into Italy for 10 years, whilst repatriation does not exclude this possibility.

Finally, assisted repatriation may include the minor's placement in a re-integration programme in his/her home country.

Although return should be implemented only in the child's best interests, and not for the control of illegal immigration, there is significant pressure – from political forces and various police and local authorities that have to deal with the problems caused by the reception of minors – to transform return into "veiled expulsion", a means of "sending a message" to discourage new illegal arrivals, and to contribute to controlling and containing illegal immigration.

According to the law, repatriation can be implemented without the minor's consensus: it is, therefore, possible to execute coercive returns.

Due to the fact that the law does not stipulate when coercive return should be implemented, or by whom it should be executed, decisions regarding this important issues are made by the Committee.

In addition, in open contrast with the Italian Constitution, there is no jurisdictional control over this procedure which limits the child's personal liberty.

A limited number of coercive returns have taken place in Italy.

A child that is to be repatriated is often not told of his/her condition, to avoid his/her leaving the accommodation centre.

Coercive returns are executed by the police in a similar way to expulsion. In some cases, the child is picked up by the police very early in the morning and then taken to the airport. Sometimes the child

resists (in Trento, for example, there have been cases in which the police had to run after minors in the streets), or causes heartbreaking scenes in front of other children in the accommodation centre; in some situations the police requires collaboration of the accommodation centre workers.

All this has extreme negative effects on both the child that has to be returned, and on the other children that assist the whole procedure. Indeed, they sometimes react by abandoning the accommodation centre, or by developing fear of or distrust for care workers and authorities. In Milan, for example, after a coercive return, the other children reacted by placing their wardrobes in front of the doors at night, so that the police could not come to take them away.

Finally, as stated above, girls who are victims of trafficking and exploited by prostitution are sometimes expelled without a thorough assessment of the potential risks of reprisal or re-trafficking: this occurs when the girls are treated as adults by the police, as they possess false documents or declare to be over 18 years of age.

12.q) To what extent does this conform to the Statement? Please outline in brief.

It is extremely positive that Italian law forbids the expulsion of minors, and that it allows for assisted repatriation in the child's best interests, with the objective of family reunification.

However, the Statement's recommendations are not fully respected: in particular, the child can be returned even without his/her consensus and he/she is not consulted at all stages. Furthermore, girls exploited by prostitution are sometimes treated as adults and expelled in practice.

12.r) Are any changes needed? In relation to any first principle?

The following is necessary:

- limits and formalities regarding coercive returns should be clarified, and jurisdictional control over measures that may limit personal liberty should exist;
- measures to avoid girls being treated as adults and then expelled should be adopted.

Conditions that must be fulfilled prior to return (SGP: C 12.2.2)

12.s) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

1) Procedures

Assisted repatriation for separated children is ordered by the Committee for foreign minors.

As stated above, once the Committee has been notified of the existence of a separated child, within 60 days it must order investigations with the purpose of identifying the child's family or verifying whether authorities in the child's country of origin are willing to take custody of the child's upon return.

During the procedure, the child must be heard by local authorities (Social Services or care workers in accommodation centres) to verify his/her views on return and the reasons for such views.

Once the Committee has received results of family investigations, and information concerning both the child's integration in Italy, and his/her views on repatriation, it decides whether the child has to be returned or whether he/she should stay in Italy. If the minor has to be returned, the Committee requests authorisation from the Minor's Court, which is normally conceded, except when there are on-going court cases.

A major problem concerning procedures for deciding between repatriation and staying in Italy is the child's right to participate [ref. par. "Right to participate"].

Another problem is time: investigations to identify the family in the country of origin and decisions concerning return take a very long time, generally months, even years. It is extremely important for

decisions concerning the child's future be taken as soon as possible. A child's personality is in a stage of formation, and is, therefore, more fragile if compared to that of an adult. A period of severe insecurity, even if only of a few months, can jeopardise the child's psychological development and lead him/her to live on the margins of society.

In addition, if the child has been in Italy for many years, he/she is generally successfully integrated in the new environment: returning a child in this situation is probably not in his/her best interest.

2) The decision-making authority

The Committee is part of the Ministry of Welfare. The following are members of the Committee: officers of the Ministry of Welfare, the Ministry of Foreign Affairs, of the Ministry of Interior, of the Ministry of Justice, two representatives of local authorities, a UNHCR representative and a representative of another organisation working with separated children.

The Committee's main mandate is that of protecting the rights of foreign separated children, in conformity to the Convention on the Rights of the Child (CRC).

The fact that a body that is part of the Ministry of Welfare, and not the Police or other Ministry of Interior authorities, is the decision-making body on matters regarding repatriation increases respect for the principle of the child's best interests, as decisions are not made merely with the aim of combating illegal immigration.

However, as the Committee is an administrative body, mostly formed by ministerial officers, it is strongly influenced by the government. Moreover, officers of the Ministry of Interior, the Ministry of Foreign Affairs, and the Ministry of Justice are most likely to work with the aim of controlling borders and not to protect minors: there is, therefore, still a strong risk for the Committee to make decisions not on the basis of the principle of "the child's best interests", but to control illegal immigration.

In addition, as decisions regarding repatriation are now made by a central authority, this has, on the one hand, increasingly harmonised measures concerning separated children at the national level. On the other, it has widened the gap between the Committee and the territory, the institutions and organisations involved in the reception of separated children, and the children themselves (in effect, as mentioned above, children are not directly heard by the Committee).

Finally, as the Committee has to make decisions for separated children in the whole of Italy, i.e. thousands of cases, decision-making procedures become extremely lengthy.

3) Decision-making criteria

Legislation does not clearly define decision-making criteria.

According to the Convention on the Rights of the Child, decisions regarding repatriation (like all other decisions regarding children) have to be made on the basis of the principle of "the child's best interest". The Committee should, therefore, order repatriation or reception in Italy, following a careful assessment of each case, and taking the above principle into primary consideration.

However, how should the Committee know which option best meets the best interests of children? The principle of "the child's best interest" is an extremely vast and indefinite notion, and legislation does not specify which criteria should be taken into consideration.

The Committee has adopted various "guidelines" that can be summarised as follows:

1) Repatriation cannot be ordered in the following cases:

- if there are no family members or authorities in the country of origin willing to take custody of the child's upon return; it must be stressed that, in cases in which family reunification is

impossible, the Committee nevertheless provides for the possibility of return “with the aim of granting custody of the child to the appropriate authorities in his/her home country, and of, thereafter, placing the minor in adequate care in that country”: this goes against current legislation according to which assisted repatriation should be finalised to achieving family reunification;

- if return is dangerous for the child: if the minor risks persecution in his/her home country, if he/she comes from a country at war, if the child involved in family feuds, or if he/she has abusing parents.

2) Return should be always ordered when:

- it is requested by a parent or a guardian;
- parents are not in agreement with the child’s views on choosing emigration (the child has run away from home, etc.)

3) If family members or authorities in the country of origin have been identified and are willing to take on responsibility for the child, and return is not dangerous, according to the Committee’s present policies, the minor should be repatriated, in order to guarantee the rights to family unity and to living in his/her home country.

The Committee views that the poverty of the child’s family and of the overall environment are not be taken into consideration (with the exception of very serious cases). In the same way, the child’s opinion, the family’s opinion and that of the guardian are not considered of great importance if opposed to return. Finally, it is not clear to what extent the Committee takes the child’s integration in Italy into account.

We are not aware of cases in which the Committee has ordered repatriations in the absence of family members or authorities in the country of origin willing to take on responsibility for the child, or if repatriation may have endangered the child.

However, the Committee has ordered repatriation for separated children in the following cases:

- children coming from families with extremely precarious financial situations, and from very poor areas, where they have no education, training, employment or assistance opportunities;
- children that were very well integrated in Italy (they were attending school, they had received job offers, they had built affective relationships, etc.);
- children that had clearly refused repatriation;
- parents were against the child’s repatriation;
- the guardian was against the child’s repatriation;
- in the case of teenagers;
- in the case of children that had been in Italy for a quite long time, even years.

Some minors have escaped to avoid return; others, that had been coercively returned by the police, have come back to Italy.

Following the filing of appeals, the Courts invalidated a number of repatriation orders, stating that the Committee had not taken into consideration important elements, such as the child’s positive integration in Italy, the family’s financial conditions, the situation in the country of origin, the increased opportunities the child would have in Italy, the minor’s wish to stay in Italy, the parent’s consensus when the child emigrated, together with the fact that the parents preferred their child to stay in Italian territory.

12.t) To what extent does this conform to the Statement? Please outline in brief.

Some Statement’s recommendations are respected:

- as far as we know, the Committee has not ordered returns when these were not safe for the child (when there were no family members or authorities willing to take on responsibility for the child or when the children came from countries at war);
- family investigations are always carried out to assess the family's situation and their ability of taking care of the child;
- the child is heard at all stages;
- the child is escorted to the family;
- a re-integration programme is implemented for every returned child.

However, other recommendations are not respected:

- the guardian's consensus is not a criteria for return;
- the child's and the family's views are not considered, if against return;
- opportunities of accessing health services, education, training, employment, etc. are not adequately considered.

12.u) Are any changes needed? In relation to any first principle?

The following revisions should be made to fully respect the principles of the CRC:

- 1) Procedures:
 - decision-making should take less time;
 - the child should adequately participate: he should be heard by the Committee for foreign minors (as asylum seekers are heard by the Central Commission), or, at the local level, by an independent authority such as the Minor's Court.

- 2) The decision-making body should be:
 - independent from the government or, at least, with no Ministry of Interior members amongst its representatives;
 - decentralised at the local level.

- 3) Decision-making criteria: in order to decide which option is in the child's best interest, assessing whether return is dangerous for the minor is not enough. The following is necessary:
 1. parents should be traced and willing to receive the minor: if the parents are not identified or if reunification is not possible, repatriation with the aim of placing the child in a residential setting in his/her home country should not be authorised;
 2. the following should be considered:
 - a) the views of the child, of his family and of the guardian;
 - b) opportunities available both in the country of origin and in Italy, and the child's actual integration in Italy (schooling, employment, social relations, etc.);
 - c) the child's age and maturity;
 - d) when the child entered Italy and how long he has been involved in integration programmes.

This does not mean that repatriation for children from very poor families or who refuse to return should never be authorised. Undoubtedly, there are situations in which return for children with these characteristics is in their best interest: for example, return could be in the best interest of children that are 10 or 12 years old, with families that are not destitute.

Financial and social conditions, in addition to the wishes of the child and his family are not unconditional criteria, but they should be considered when deciding on which option is in the child's best interest, together with the other criteria and the child's age and maturity.

Programmes and Aid to Facilitate Reintegration (SGP: C 12.2.2)

12.v) Please describe:

- **relevant law and policy in your country**
- **relevant practice in your country**

1) Reintegration programmes

The NGO that has organised the child's return is responsible for the implementation – possibly with the minor's collaboration – of an ad hoc reintegration programme. Depending on the situation (the child's wishes, the options available), the programme provides for different measures, such as vocational training or traineeships, employment, education, financial support for setting up a business, financial support to the child's family.

Until 2002, a maximum of approximately 1.500 euro could be spent on every minor's reintegration programme. However, this ceiling is not fixed and was increased to approximately 3.500 euro by the new 2002 conventions. The Ministry of Welfare, through the associated NGOs, is responsible for the expenses of the reintegration programmes.

The possibilities of implementing this kind of programmes is strongly linked to the resources available in the child's country of origin (training, employment, education), and to the results of NGO networking with public and private authorities in those countries.

Important progress has been made in Albania thanks to both the experience of the International Social Service, and to the presence of many Italian NGOs that are working on development projects financed by the Italian government, some specifically focused on children.

In other countries (Morocco in particular), however, there is still a lot to be done. Many returned Albanian children are offered a reintegration programmes, but this is more difficult for children from other countries.

In Albania, the International Social Service is collaborating with public and private professional training authorities, for the implementation of training courses; it is working with local small Albanian entrepreneurs and craftsmen to organise traineeships (whilst Italian entrepreneurs have not been willing to employ trainees). The International Social Service generally pays the training course fees and awards the minor a small scholarship; and it gives trainees both a salary and state insurance.

However, also in Albania, the possibility of implementing reintegration programmes is strongly influenced by the area the child comes from. In cities such as Tirana or Scutari it is quite easy to find professional courses or traineeships; in others areas, particularly in the villages of Northern Albania, it is very difficult, if not impossible. In these cases, the only chance of attending a vocational course and/or a traineeship is that of commuting, which always entails a lot of travelling. Another alternative is that of moving to the cities, even if student accommodation is scarce (the International Social Service points to the possibility of creating flats and new residences to facilitate minors in moving to urban areas). When minors decide to move to the city, the International Social Service covers their travelling expenses and/or accommodation.

In addition to vocational training and traineeships, upon conclusion of the course, the minor may be assigned a small financial amount to set up a business. Funding awarded by the International Social Service is partly a grant and partly a loan, to be paid off in the future. This method encourages the minor to be seriously committed and not to perceive the funding as mere assistance.

Money is rarely given directly to families: this may occur in situations in which the family has become seriously indebted to pay for the minor's travelling expenses, and the debt represents a livelihood problem.

NGOs that organise returns and reintegration programmes stress that both Social Services and accommodation centres play an important part in the final success of reintegration programmes. According to these NGOs, Italian care workers should not diminish the significance of these reintegration programmes from the child's viewpoint, nor should they contribute to creating false expectations (as, for example, the possibility of receiving money after return).

2) Data on the results of reintegration programmes and on repeated emigration

The International Social Service and the Istituto Psicanalitico per le Ricerche Sociali have carried out research on the condition after return of a sample of 256 Albanian minors returned between 1998 and 2000 by the International Social Service (the total of returned minors was 389)².

Only 54 of the 256 minors (21% of the sample) agreed to attend vocational training.

Tab. 1 – Minors attending vocational training

Year	Minors attending vocat. Training	Returned minors	% Of returned minors attending vocat. Training
1998	33	139	24 %
1999	12	75	16 %
2000	9	41	22 %
Tot.	54	255	21 %

Source: International Social Service

In addition, during the first months of 2001, only 98 of the 256 returned minors were still in Albania, whilst 155 had emigrated once again.

Some of the children returned between 1998 and 1999, have been repatriated two or three times.

According to care workers, minors that come back to Italy no longer trust reception and care authorities and, therefore, often choose to live illegally and end up getting in criminal activities.

Tab. 2 – Minors still in Albania / that emigrated again

	n.	%
Minors still in Albania	98	38,3%
Emigrants	155	60,5 %
Missing Data	3	1,2 %
Tot.	256	100 %

Source: International Social Service

The majority of children that have once again left their home countries have returned to Italy; other chosen destinations are England and Greece.

Tab. 3 – Destinations for second emigration

	n.	%
Italy	106	68 %
England	19	12 %
Greece	12	8 %
USA	2	1 %
Australia	1	1 %
Belgium	1	1 %

² Servizio Sociale Internazionale Sezione italiana, Istituto Psicanalitico per le Ricerche Sociali, I minori albanesi non accompagnati – Una ricerca coordinata fra Italia e Albania”, Rome, 2001, pgs. 35-51. Males represent 95,7% of the sample; the average age is 17,44.

Germany	1	1 %
Switzerland	1	1 %
Missing Data	12	8 %
Tot.	155	100 %

Source: International Social Service

The percentage of children that repeat emigration varies according to the area: from a minimum percentage in Elbasan (27,3%) or Scutari (40%) to a maximum in Valona (88,9%) and Diber (84,6%).

Valona stands out as a centre for a substantial business focused on illegal immigration, with many boat owners and traffickers. Minors from Diber, on the other hand, are forced to repeated emigration mostly because of poverty, unemployment, and no training opportunities that characterise this areas (due to the lack of local resources, the International Social Service has not been able to organise vocational training or traineeships in Diber).

Of the 54 minors that had agreed to attend vocational training courses, 29 (53,7%) are still in Albania, whilst 25 (46,3%) have emigrated again.

Of the above 29, 9 attended a traineeship which then led to employment for 5 of them.

Finally, of the 69 minors that stayed in Albania, but did not attend vocational training, only one found a job.

On the whole, from a total of 256 returned minors, only 6 (2,3% of the total) have found employment in Albania: the others have either emigrated again or are in Albania without a job.

This data indicates that, at present, minors do not consider assisted repatriation as a valuable alternative to emigration. The possibility of attending vocational training or a traineeship is not enough if there are no real employment opportunities in their home countries. This is partly due to the way in which reintegration programmes are formulated and implemented: programmes should do their best to meet the minor's needs, they should lead to employment, and should involve the minor and his family at all stages, including formulation.

However, the Committee and the International Social Service have been very serious in formulating and implementing reintegration programmes for Albanian minors, and cannot be criticised. The limits of reintegration programmes (in particular, the shortage of employment opportunities) and the minor's choice of emigrating again are mostly due to the situation prevailing in the country (unemployment rate, wages, etc.), which the programmes cannot change.

12.w) To what extent does this conform to the Statement? Please outline in brief.

The Italian government, similarly to matters concerning family investigations, has set up an efficient reintegration programme for returned minors, especially in Albania; in other countries, however, there are still serious deficiencies.

12.x) Are any changes needed? In relation to any first principle?

The following is necessary:

- to implement valid reintegration programmes in countries different to Albania;
- to increasingly involve the minor and his family in the formulation of the reintegration programme.

Settlement in a Third Country (SGP: C 12.3)

12.y) Please describe:

- relevant law and policy in your country
- relevant practice in your country

12.z) To what extent does this conform to the Statement? Please outline in brief.

12.zz) Are any changes needed? In relation to any first principle?

13. DATA COLLECTION

Good data on separated children is required to assist the implementation of good practice.

a. Who should be responsible for collecting data on separated children? Please consider both government departments and NGOs.

b. What sort of data is required? From government? From NGOs?

Please provide any current data (1997 - 1999) on separated children, which is available (from both government and NGOs). We appreciate that at this time most of this data will relate to asylum

1) 1999-2001

1) Children not seeking asylum

The Committee for foreign minors, amongst other functions, has to take a national census of all separated children not seeking asylum in Italy: according to legislation, these minors have to be notified to the Committee that collects and then processes data at the national level [ref. par. "Registration and documentation"].

This has improved data collecting and can be considered an excellent model.

This, of course, does not mean that the Committee's data provides the exact number of separated children in Italy, as some cases are not notified. Its estimate, however, has become ever more accurate.

Between the 1st July 2000 and the 30th November 2001, 14834 minors were identified by the Committee. 7011 became adults in this period of time.

More than half of the identified minors came from Albania. Others came from Morocco and Rumania.

Tab. 4 – Separated children notified to the Committee, according to countries of origin

Country	Tot. Identified 1.7.2000 - 30.11.2001		Minors On the 30.11.2001	
	n.	%	n.	%
Albania	9047	61,0	3971	50,8
Morocco	1715	11,6	1358	17,4
Romania	1088	7,3	627	8,0
Fed. of Yugoslavia	568	3,8	386	4,9
Bangladesh	288	1,9	120	1,5
Turkey	286	1,9	136	1,7
Algeria	222	1,5	169	2,2
Iraq	175	1,2	126	1,6
Moldavia	163	1,1	163	2,1
China	113	0,8	65	0,8
Others	1169	7,9	702	9,0

Total	14834	100	7823	100
-------	-------	-----	------	-----

Source: Committee for foreign minors

The number of Moroccan minors is probably underestimated due to the fact that many of these children are received by relatives, and are, therefore, either not identified by social services, or not notified to the Committee. We are, indeed, aware that, in different cities, separated children received by parents are not notified to the Committee: this is because care workers have no adequate knowledge of procedures, and because the Committee is often not sure as regards to its responsibility on matters related to this category of minors.

Regarding age, the majority of identified separated children are between 15 and 17.

As previously stated, of the 14834 separated children identified between the 1st July 2000 and the 30th November 2001, 7011 (47,3% of the total) became adults. Of the remaining 7823, 68% of identified minors were between 16 and 17 on the 30th November 2001.

Tab. 5 – Separated children notified to the Committee, according to age

Age (on the 30.11.2001)	Minors on the 30.11.2001	
	n.	%
0-6	200	2,6
7-14	1316	16,8
15	995	12,7
16	2018	25,8
17	3294	42,1
Total	7823	100

Source: Committee for foreign minors

There is a higher number of males amongst identified minors:

Tab. 6 – Separated children notified to the Committee, according to sex

Sex	Tot. Of identified minors 1.7.2000 - 30.11.2001		Minors on the 30.11.2001	
	n.	%	n.	%
Male	13078	88,2	6724	86
Female	1756	11,8	1099	14
Total	14834	100	7823	100

Source: Committee for foreign minors

However, data regarding sex may not be exact, as the number of females may be underestimated: in effect, girls who are victims of prostitution and placed in social protection programmes are sometimes not notified to the Committee.

Notifications come mostly from the following Italian regions: Puglia in Southern Italy (where children are often notified after landing, but do not stay in that region and move on to others); Lombardia, Lazio, Tuscany, Piemonte, Emilia-Romagna, in the Northwest and Centre, and regions in the Northeast.

Approximately 20% of notified minors disappear after notification, as they leave the accommodation centres in which they have been placed.

Tab. 7 – Separated children notified to the Committee, according to location

Location	Tot. Of identified minors 1.7.2000 - 30.11.2001		Minors on the 30.11.2001	
	n.	%	n.	%
Traceable	12130	81,8	6060	77,5
Untraceable	2704	18,2	1763	22,5
Total	14834	100	7823	100

Source: Committee for foreign minors

The number of disappeared minors varies from city to the city: Turin has the lowest rate, whilst Milan, for example, has a very high rate (42%).

On the 30th November 2001, the Committee set repatriation and non-repatriation orders for 236 minors, representing 1,6% of the minors identified.

Tab. 8 – Measures taken by the Committee

Measures	n.	% *
Return	129	0,9
Non-return	107	0,7
Total	236	1,6

Source: Committee for foreign minors

* Percentage of the total of minors identified between 1.7.2000 and 30.11.2001

What kind of family or social environment do these children come from, and why do they emigrate to Italy?

There is no data on all separated children notified to the Committee, but we can refer to observations made by the Albanian Office of the International Social Service concerning Albanian minors:

“According to the analysis of the cases dealt with by the Albanian Office, with reference to the programme for assistance during assisted repatriations of Albanian minors living in Italy, we are able to define a “standard case”, after considering the most common problems found in children.

The “standard minor” is a male, between 16 and 18 years of age, that has completed statutory education, but has not continued to study, mostly residing in a village, or emigrated to a city with his family. His/her parents agree that education has no importance and that he/she will find a better life in Italy upon conclusion of statutory education. Surrounding him/her are other Albanians that have emigrated to Italy and have either come back rich, or send money to their families allowing them to live in comfort: the minor’s family, therefore, decides to become indebted or to sell one of their livestock to pay for the minor’s journey.”³

Nearly all separated children now in Italy are “voluntary” emigrants. Most of them have their family’s consensus, and emigrate to find better living conditions and a job and, in many cases, to support their families at home. Some of these youngsters are immediately placed in a childcare and protection circuit and are not exploited. Others, however, are exploited and involved in activities such as begging, street selling, drug trafficking, theft, prostitution, etc.

³ Servizio Sociale Internazionale, “Rapporto sul programma svolta dal Servizio Sociale Internazionale in Italia e in Albania negli anni 1998-1999”, Rome, January 2000, pg. 36.

Finally, there are a number of minors who are actually trafficked: sometimes either forced or cheated, these children are brought to Italy with the aim of exploitation.

2) Children seeking asylum

Reliable data on children seeking asylum is not available.

According to informal UNHCR information, asylum applications made by separated children in Italy are approximately 100 per year, and applications often receive a positive answer, due to the fact that if a child reaches the legal stage of applying for asylum (in very few cases), he/she almost always represents a case of real persecution.

2) Latest statistics

1) Separated children not seeking asylum present in Italy and referred to the Committee for foreign minors, on July 2003

a) Total: 7040 separated children

b) Age

0-14	1684	23,9%
15-18	5356	76,1%
Tot.	7040	100,0%

c) Countries of origin

Albania	2122	30,1%
Morocco	1802	25,6%
Romania	1462	20,8%
Serbia-Montenegro	224	3,2%
Algeria	158	2,2%
Iraq	105	1,5%
Croatia	82	1,2%
Moldova	76	1,1%
Tunisia	63	0,9%
Herceg-Bosna	61	0,9%
Afghanistan	54	0,8%
Turkey	44	0,6%
Palestine	41	0,6%
Others	746	10,6%
Tot.	7040	100,0%

[Actual data. Source of data: Committee for foreign minors]

2) Separated children seeking asylum registered by the Central Commission for the Recognition of the Refugee Status – January 2002-December 2002:

a) Total: 44 separated children

- b) Main countries of origin: Iraq 9, Eritrea 6, Serbia-Montenegro 6, Sri Lanka 4, Liberia 3, Somalia 3, Palestine 2, Republic of Congo 2, Sierra Leone 2, Ethiopia 1, Kazakistan 1, Nigeria 1, Pakistan 1, Romania 1, Syria 1, Turkey 1

[Actual data. Source of data: Central Commission for the Recognition of the Refugee Status]

3) Separated children trafficked and exploited in prostitution – 2001-2002

- a) Total: about 500 separated children
- b) Main countries of origin: Albania, Moldova, Romania, Nigeria

[Estimated data. Source: F.Carchedi, “The traffick of children: little slaves without borders”, Terre des Hommes, Fondazione Internazionale Lelio Basso, Save the Children Italia, Associazione Parsec, Rome, 2002]