



**International Convention for
the Protection of All Persons
from Enforced Disappearance**

Distr.: General
11 June 2020

Original: English
English, French and Spanish only

Committee on Enforced Disappearances

**Information received from Italy on follow-up to the
concluding observations on its report submitted under article
29 (1) of the Convention***

[Date received: 22 May 2020]

* The present document is being issued without formal editing.



I. Introduction

1. At the outset, we would like to take this opportunity to recall that within the framework of the latest consideration of Italy under Universal Periodic Review (November 2019, Cycle 3), the UN Compilation on Italy (A/HRC/WG.6/34/ITA/2) mentions as follows: §9. The Committee on Enforced Disappearances commended Italy for having established a national mechanism for reporting and follow-up, the Inter-ministerial Committee for Human Rights, which was internationally recognized as a best practice. We therefore would like to thank this august Committee and confirm that the utmost attention will be paid to relevant observations and recommendations also in light of Italy's consideration under UPR.

II. Follow-up information (CED/C/ITA/CO/1)

A. Follow-up information relating to paragraph 15 of the concluding observations

2. Within the framework of the preparation of Italy's consideration under Universal Periodic Review (November 2019) and the preparation of the present follow-up reply, the Italian Government has taken into due consideration the relevant concluding observations (UN Doc. CED/C/ITA/CO/1, dated May 10, 2019) made by this august Committee, last year.

3. In this regard - notwithstanding the principles underlying the Italian penal order and the broad array of relevant norms concerning the matters with which the Convention is concerned -, the competent technical offices of the Ministry of Justice are paying specific attention to this issue also in view of next reporting cycle.

B. Follow-up information relating to paragraph 33 of the concluding observations

4. Under the provisions of the Code of Criminal Procedure, the definition of a victim covers both the person directly injured by the crime and persons who suffers from physical or mental harm as a consequence of the crime although, in many cases, the two notions can overlap. Both may be classed as victims under article 24 of the Convention and are entitled to claim reparation.

5. Also family members can be considered victims; may participate in proceedings; and initiate civil proceedings to obtain reparation.

6. In the event of the death of the victim as a consequence of the events, article 90 (3) of the Code of Criminal Procedure extends the status of victim to the person's immediate family.

7. Moreover, the Code of Criminal Procedure defines aggravating circumstances as including offences against minors and vulnerable persons. Under the provisions of article 90 (quarter), the victim's need for specific protection is established not only on the basis of age and physical or psychological disability, but also on the type of offence and the particular circumstances of the case.

8. Any person negatively affected by an offence of enforced disappearance could sue for damages in criminal proceedings, within which the amount of compensation might be determined. If they do not wish to be involved in the criminal trial, such persons can alternatively bring civil proceedings. Any person or body, including a State institution, responsible for the enforced disappearance, would be held accountable and be liable to provide compensation.

9. If compensation is not awarded as part of criminal proceedings, Article 2043 of the Civil Code, which recognizes the right to compensation for harm suffered, will apply.

10. In the case of sudden death, close relatives are entitled to compensation. The Court of Cassation also awarded damages to others who were close to the deceased, such as same-sex partners. There is no inheritance tax on damages awarded following sudden death.

11. If the civil party (“*parte civile*”) appears before the court in the criminal proceeding for civil damages, the statute of limitations will follow the relevant trial whereas in general the statute of limitations for civil damages for unlawful actions is five years. Moreover, for the time being, under new legislation, the statute of limitations may suspend after the decision of the Court of first instance.

C. Follow-up information relating to paragraph 35 of the concluding observations

12. Italy pays the utmost attention to the situation of unaccompanied foreign minors (UAMs) and, for this reason, is deeply committed to ensuring that they are fully protected.

13. Following Council of Europe Convention on Action against Trafficking in Human Beings ratification (Act No.108/2010), Italy enacted EU Directive 2011/36, by which to: introduce a specific definition of the crimes of reduction into slavery and trafficking, strengthen inter-institutional cooperation on trafficking and asylum, and encourage assistance to UAMs requesting international protection.

14. In 2017, Act No.47/2017 concerning the protection of unaccompanied foreign children (UAMs) introduces amendments to strengthen protection tools, including with regard to: identification and age assessment; census and monitoring of UAMs; issuance of residence permits; appointment of voluntary guardians; and voluntary returns.

15. Article 11 of the above Act No.47 may be considered the cornerstone of the above law. It focuses on the role of the voluntary guardian. The latter, appointed by the competent juvenile court, is one of the safeguards for an effective protection system.

16. Depending on the Regions or Autonomous Province, candidates are selected and trained by their respective Children’s Ombudsperson or, in those Regions where there is no Ombudsperson, by the National Independent Children’s Authority (acronym in Italian, AGIA). The National Children’s Authority (acronym in Italian, AGIA) is responsible for monitoring the implementation of the voluntary guardianship system at a domestic level.

17. Procedurally, in accordance with Italian legislation,¹ the following procedure is to be applied whenever foreign unaccompanied minors are detected on Italian territory, including after landing:

(a) The identity of the child is ascertained by the public security authorities, assisted by cultural mediators, at the presence of the guardian or temporary guardian - after prompt humanitarian assistance has been guaranteed;²

(b) The Public Security Authority immediately notifies the presence of an unaccompanied foreign minor to: Public Prosecutor’s Office and the Juvenile Court, for the appointment of the guardian; and the Ministry of Labor, to ensure monitoring of the presence of unaccompanied minors.³

18. As for age’s assessment, in accordance with Legislative Decree No.220/2017, Public Security Authorities consult the SIM system and other databases. In case of doubts about the declared age, this is to be ascertained mainly through the examination of documents, also by making use of the collaboration with diplomatic-consular authorities.

19. Consular/diplomatic contacts cannot take place either when the (presumed) minor expresses the will to apply for international protection or when an international protection need emerges following his/her interview.

¹ Act No. 47/2017 amending Legislative Decree No.142/2015.

² (Art. 19-bis, paragraph 3 of Legislative Decree No.142/2015).

³ (Art.19, Legislative Decree No.142/2015).

20. If reasonable doubts remain about the declared age, the Public Prosecutor's Office at the Juvenile Court can order the assessment by means of socio-medical examinations, with a multidisciplinary approach. Also for the purposes of reception, the child's age is then presumed when doubts remain following the results of the relevant procedure.⁴

21. More specifically, within all the Italian Hotspots and in all the places where landing events occur, standard operating procedures (SOPs) are observed, as agreed with all the actors involved (Department of Public Security, European Commission, FRONTEX, EASO, EUROPOL, UNHCR, and IOM), which envisage, in order to manage organized arrivals, a specific operating sequence:

(a) Once concluded rescue and disembarkation operations (during which migrants receive a bracelet with a progressive identification number), a health screening is carried out, in order to identify people who require specific medical attention or have obvious vulnerabilities;

(b) Once in the Hotspot, the migrants undergo medical examination and international organizations authorized to access the centers (in particular, UNHCR and IOM) hand over to them informational documents (as translated into different languages - English, French, Tigrinya, Arabic), on the current legislation on immigration and asylum, their status as immigrants and on the possibility of requesting international protection;

(c) Subsequently, pre-identification and initial screening interviews are carried out. In this phase, attention is paid to the identification of families and families' members, in order to prevent their separation during the subsequent phases and the identification of any unaccompanied minors.

22. During the identification phase (also through finger-printing), photo-signaling and control of databases (AFIS/EURODAC and other Police databases), specific attention is paid to the identification of both unaccompanied foreign minors – by a holistic approach, which privileges non-invasive methods and resorting only as a last resort to medical assessment - and people with special needs, especially the possible victims of trafficking in human beings.

23. The migrants hosted in the Hotspots receive goods, such as food, personal hygiene products, a first entry kit, including clothing based on the gender and age of the applicants, a 5-euro phone card, and pocket-money.

24. First entrance medical check-ups and first aid interventions are also always guaranteed, with the aim of ascertaining any pathologies that require isolation or specialist visits, as well as the assessment of any vulnerable situations.

25. From the entry and throughout the stay in the Hotspot, psychological assistance service is also provided for the immediate assessment of personal socio-psychological situations with regard to the identification of persons with special needs.

26. The information service is also provided with the help of cultural mediators present in the Hotspots. Moreover, at the Hotspots family unity and privacy is guaranteed, providing for separate housing for families, women and children.

27. With regard to the information activity, until December 2019, within the context of two projects named Support Multi Action and ADITUS, financed through the Asylum Migration and Integration Fund (acronym in Italian, FAMI), UNHCR and IOM supported the coordinated management of mixed flows, including through specific lines of action aimed at disseminating information on access to asylum procedures and strengthening multi-level governance of arrivals by sea. The Ministry of Interior is currently assessing two new projects proposals by UNHCR and IOM to continue providing specialized services to the benefit of UAMs arriving in Italy. During the aforementioned phases, the European Frontex Agency carries out de-briefing activities aimed at collecting evidence and information for the purpose of risk assessment, in order to contribute to investigations concerning traffickers.

⁴ (Art. 5, paragraph 9, Act No.47/2017).

28. As regards census and monitoring of unaccompanied foreign minors (UAMs), the Ministry of Labour and Social Policies is in charge of the relevant National Information System (acronym in Italian, SIM). This system registers the entry and the ensuing pathway undertaken by the child.

29. Statistical and monitoring reports, containing aggregated and anonymous data concerning the presence of unaccompanied minors on the Italian territory, are periodically published on the institutional website. As of 31st August 2019, 6,775 unaccompanied children were present in Italy: boys are 93%, mostly (85%) aged 16-17.

30. In accordance with the Unified Text on Immigration (Art.32 of Legislative Decree 286/1998), the Ministry of Labour is also responsible for issuing a compulsory but not binding opinion concerning the integration pathway followed by the unaccompanied minor, which is required also for the issuance of a new residence permit when the child comes of age. In 2018, the Ministry of Labour issued 2,344 positive opinions. The Ministry of Labour is also in charge of developing family tracing in the country of origin.⁵ Family tracing consists of a deep analysis of the context of origin of the child and provides for fundamental information in order to find durable solutions in the best interest of the child. On the basis of a specific agreement, family tracing is carried out by involving IOM. In 2018, IOM was requested to carry out family tracing for 124 unaccompanied minors. To be stressed that consular/diplomatic contacts cannot take place either when the (presumed) minor expresses the will to apply for international protection or when an international protection need emerges following his/her interview.

31. Law-Decree No.113/2018, converted into Act No.132/2018, reforms the SPRAR System, now renamed SIPROIMI (standing for, Protection System for holders of International Protection and Unaccompanied Foreign Minors). It reserves access to the structures of this circuit to:

- (a) Holders of international protection;
- (b) Unaccompanied foreign minors (including non-asylum-seekers);
- (c) Holders of residence permits under “special cases”, including for social protection purposes (such as victims of trafficking, victims of domestic violence, and victims of serious labour exploitation), natural disaster in the country of origin, exceptional civic acts, and for serious health conditions and medical care.

32. As for Law-Decree No.113/2018 and the reception of unaccompanied foreign minors (UAMs), unaccompanied foreign minors continue to get access to the reception system regardless of the application for asylum. Moreover, by Law-Decree No.113, the System of Protection for International Protection Holders and Unaccompanied Foreign Minors (in Italian, SIPROIMI) will become the specific reception system for UAMs, with resources from the National Fund on Asylum-related Policies and Services; and provides minors with ad hoc services until the coming of age and beyond - up to the age of 21, upon judicial authority’s decision.

33. More generally, as far as unaccompanied foreign minors are concerned, Law-Decree No.113 has not innovated the discipline, which provides for the prohibition of expulsion and refolement (Art.19, paragraphs 1bis and 2, Legislative Decree 286/1998) and the issuance of a residence permit for minor age or for family reasons, depending on whether the minor is received in a dedicated facility or cohabits with an Italian citizen or with a legally resident foreigner to whom s/he is entrusted (Art.10, Act No. 47/2017). The principle of the best interests of the child informs all Italian legislation (Article 28, paragraph 3, Legislative Decree No. 286/1998), which envisages pathways of inclusion; and regulates, at the coming of age, the possibility of continuing these paths (Article 13, Act No. 47/2017) and the relating conversion of the related stay permit (Article 32, para.1bis, TUI).

34. To complement the normative framework outlined above, with regard to family reunification, the national system gives due consideration to the right to family unity

⁵ In accordance with Decree of the President of the Council of Ministers 535/1999.

(Article 29, Legislative Decree No.286/1998), by a provision of a general nature (Article 5, paragraph 5, Legislative Decree No. 286/1998), which provides that by a refusal measure, including revocation or denial to renew the residence permit of the alien who exercised his/her right to family reunification or of the right of the reunited family member pursuant to Article 29, it is to be taken into account also the nature and effectiveness of the family ties of the person concerned and the existence of family and social ties with his/her country of origin, as well as the duration of the stay in the national territory, as regards the alien already present on the national territory”.

35. Prior to Act No.132/2018, Law-Decree No.13/2017 introduced significant changes in the field of international protection in order to speed up administrative and jurisdictional proceedings and to fight illegal immigration, including the establishment of 26 Specialized Sections within the Ordinary Courts, with competence in the field of immigration, international protection and free movement of people.

36. The Territorial Commissions for the recognition of International Protection have been strengthened, by the recruitment and training of 250 highly qualified case-workers in 2018, and 162 more in 2019.

37. The National Commission for the Right to Asylum pays specific attention to women victims of trafficking in human beings and women victims of gender-based violence. The situation of vulnerability refers to among others: minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of human trafficking, who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence. To vulnerable persons, the Territorial Commissions guarantee special support and assistance during the asylum procedure: taking into account their special needs, the examination of the international protection application shall be prioritized, in accordance with Act No.25/2008.

38. By ADITUS project, financed with AMIF resources, IOM was also engaged in promptly detecting among migrants, victims and potential victims of THB. A new project led by IOM is currently under assessment by the Ministry of Interior. The Ministry of Labour is implementing the “Pathways” project, designed to strengthen social-labour inclusion of unaccompanied children and young migrants, by providing them with vocational training opportunities and facilitating their access to the labour market. Started in 2016, and funded by European Social Funding (for a total amount of about 10 million Euros), during the first and the second phase of this project, 1604 paths out of 1810 were successfully completed. The third phase, which foresees 170 additional paths, is on-going.

39. As earlier mentioned, the second-level assistance – the SIPROIMI (former SPRAR) - is devoted to international protection holders; unaccompanied foreign minors; holders of residence permits for special cases.

40. In continuity with the previous legislation, the SIPROIMI offers comprehensive assistance aimed to effective autonomy and integration for the beneficiary thanks to many services - to be added to the ones under first-level reception -, such as literacy and Italian language courses, professional training and re-training, personalized socio-economic integration plans. The rationale is to facilitate the integration of those persons entitled to reside legally and for an extended period of time in the Italian territory, while, at the same time, not precluding the possibility of integration for asylum-seekers who are waiting for the definition of their status.

41. With regard to both levels of reception, monitoring is entrusted to specific inspection Teams from the Prefectures. Within this framework, mention may be made of specific monitoring projects, such as Mireco. With regard to SIPROIMI, monitoring is carried out by the Central Service managed by the National Association of Italian Municipalities. Moreover, the Ministry of Interior in May 2019 requested the Prefectures, to strengthen this monitoring exercise. In July 2019, specific inspection Teams of the Department on Civil Liberties and Immigration (Ministry of Interior) were set up, as well. They carry out specific monitoring in coordination with the Prefectures and the above-mentioned Central Service.

42. Following the decrease in arrivals by sea and the closure of 19 out of 27 first reception shelters (financed with AMIF funds), only 8 projects for UAMs (seven in Sicily; and one in Molise Region) will be in place until July 2020, providing a total of 200 places. They offer specialized support to UAMs in view of their transfer to second reception shelters. Similarly, only 1 temporary reception centre remains active as of May 2020 (All the UAMs previously hosted in these shelters have been transferred to second reception facilities). To facilitate the current transition towards the SIPROIMI as the specific reception system for UAMs, the duration of the remaining AMIF-funded first-reception projects has been extended to 31 December 2020 and the capacity of 6 of them expanded from 25 to 50 places.

43. The second-level reception's capacity to host UAMs was increased by 595 places in 2019, following the positive evaluation of 32 new projects. In addition to SIPROIMI shelters, 13 second-level reception projects, financed with AMIF resources, are operating, providing additional 326 places for UAMs, 102 of which intended for particularly vulnerable children. Overall, as of May 2020, the capacity of the second-line reception system for UAMs, including both SIPROIMI and AMIF-funded second-reception shelters, amounts to 3,267 places.

III. Conclusion

44. To conclude, we take this opportunity to reiterate our firm support for the work of the CED Committee and to continue effective cooperation.
