

ITALY

DON CALABRIA INSTITUTE

Introduction

For unaccompanied foreign minor, we intend the minor without Italian or other European Union countries citizenship that by failing to apply for asylum, find himself/herself on the Italian territory without assistance and representation from parents or other adult legally responsible for him/her in accordance with the Italian normative in force¹.

Population Description

The characteristic better distinguishing the phenomenon since its first appearance (about a decade ago) in Italy is its changeability in terms of nationality of the minor².

Unaccompanied foreign minors present on Italian territory at 28th February 2013 were 7.066 (minors signaled and present and minors signaled but unavailable), they come mainly from Bangladesh (23.5%), Egypt (15%), Afghanistan (12.8%) and Albania (10.8%).

The profile of the unaccompanied foreign minor is hence represented by male (93.9%) coming from the above mentioned countries and aged 17 years (4.266 i.e. 60.4%)³.

Legal framework

The juridical status of the foreign minor is quite complex a placed at the border between two legislation the one concerning minors and the ones on foreigners. Such legislations are quite different between and focuses on opposite guiding principles: the first bases itself on support and protection while the second involve the delicate topic of public security and hence it is focused on control and defense principles.

During the last ten years a sort of normative network has been created, therefore, the individuation of minor's juridical status can't be reduce to the gap between regular and irregular. Given this, when relating with a foreign minor it is fundamental to be aware of his/her juridical status.

Given this, the main Law governing the issue of foreigners is the art 10 of Italian Constitution that at paragraph 1 argues the following: " the juridical status of the foreigner is governed by the Law in accordance with the international standard and regulation. The principle of reference is hence the one of *civil equality*, only the Parliament can give or take out subjective right.

When facing with the issue of foreign minors, between international standard we have certainly to recall the Convention on the Rights of the Child (New York, 1989) that has been ratified by Italy with Law 176 of 27th May 1991. In particular, in Italy, unaccompanied foreign minors have the right to

¹ Council of Ministers Presidential Decree n.535/99". The Italian normative governing the issue of unaccompanied foreign minors is the " *Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero*" (D.LGS of 25th July 1998, n. 286 - artt. 19, 33).

² In 2000, for example, the phenomenon was characterized by high presence of Albanian, Moroccans and in part Romanians minors, with a percentage of unaccompanied foreign minors of almost 70% (Source: Committee for Foreign Minor CMS)

³ An important change of scenery concerned the entry of Romania and Bulgaria to the EU (1st January 2007), these minors even if unaccompanied are now at all effects European citizens and no longer reported to competent bodies.

preserve their identity, including their nationality, name and family relations, the right to education, health care, family unity, and the placement in a safe place. Furthermore they have the right to protection in case the parents are not in a position to exercise parental authority and to foster if the family environment is not adequate⁴.

Principal juridical law governing the staying of the minor and the protection of the same

As already highlighted, unaccompanied foreign minors, independently by their country of origin and their position of legal or illegal, are bearers of all the rights stated in the Convention on the Rights of the Child (New York, 1989).

Prohibition of expulsion

In case of unaccompanied foreign minors the use of expulsion is prohibited (D.Lgs. n.286/1998, art. 19, co. 2). The iter to be followed once traced an unaccompanied foreign minor is the following:

1. Communication of the presence of the minor to General Direction for Immigration and integration policies by the Ministry of Employment and Social Policies
2. The taking in charge and the support by the Municipality where the unaccompanied foreign minor has been traced. The municipality is also responsible for the paying of the fee to the Community hosting the minor according to national and regional law.

Health care

Unaccompanied foreign minors without residence permit can't register to the National Health Service but the access to day hospital and urgent and/or essential hospital cares must be guaranteed (D.Lgs 268/98, art. 35)

Education

The Convention on the Rights of the Child (New York,1989) guarantees *the right to education for all minors* (art. 28). Unaccompanied foreign minors present on the Italian territory are subject to right/duty to education/training. The registration of the minor must be accepted at any moment even if without residence permit or documents (D.P.R. 394/99, art. 45). Unaccompanied foreign minors aged between 15th and 18th years temporary present on the Italian territory are hence subject as well to the right/duty to education (Law n.53/2003)

Family tracing and assisted repatriation

The General Direction for immigration and integration policies (Ministry of Employment and social policy) is competent for family tracing and assisted repatriation (D.P.C.M. n. 535/1999, art 2 and art 7).

⁴ D.Lgs 286 of 25th July at article 2 states the principle of equity between Italian and foreign citizens arguing that concerning the relationship with public administration and the access to public services foreigners have the same rights of Italian citizens.

The model of minor protection stated by Italian law concerning the family tracing and the assisted repatriation represents a complex intervention involving multiple stakeholders (General Directorate for Immigration, Municipalities, Juvenile courts, International Organization for Migration - OIM⁵)

Family tracing are fundamental to understand the context of origin of the minor (family, education, work). Information and data on minor condition before his/her leaving and about the family context (internal relationships and socio-economical conditions) are fundamental to enable social operators to draft an integration project in Italy or, if there are the necessary conditions, the assisted repatriation in the country of origin if the minor agrees.

The assisted repatriation is a measure that can be arranged by the General Direction for immigration and integration policies, only if the following criteria are met:

- ❖ Willingness of the minor to re-join the family
- ❖ Positive exit of family tracing
- ❖ Consent by the legal tutor and social services of the Municipality
- ❖ Authorization by judicial authorities

PREMIX TO THE CONTENTS:NEED ASSESSMENT E FAMILY TRACING

The legislation recognizes the rights of the children for their various needs and it is appropriate to the international standards. There aren't particular legislative inconsistencies but a lack of coordination that creates greater uniformity in regulations at the regional level.

Speaking about the general organizational, it is clear that the task to carry out the assessment of the needs of the child with respect to the life project is entirely activated by municipalities and especially by the Social Workers often in cooperation with the facilities where minors is received. Is frequently underestimated the number of people required to perform properly these functions and also becomes clear a lack of adequate means both economic and related to collaborative networks.

⁵ OIM support the General Direction for immigration and integration policies in the family tracing procedures providing useful information for the knowledge of the country of origin of the minor. Family tracing consist in a socio-economical analysis carried on in the country of origin. The meeting and dialogue with minor's family OIM draft a framework of the family and social context in order to gather useful information able to :

- Deepen the family context of the minor and the migration plan
- Deepen criticism and weaknesses emerged by the dialogue with the same minor
- Plan the integration pathway in Italy adapting it to his real needs and motivations
- Evaluate the opportunities of reintegration of the minor in the country of origin in an optical of sustainability and protection.

In the case of a penal situation, all procedures relating to the system of juvenile justice are well activated by the Centers of Juvenile Justice though, in the light of some deficiencies, the assessment is acted in the educational facilities mentioned above.

More stakeholders involved on the basis of specific cases are:

- Social Services of the territories of origin;
- Embassies and Consulates;
- Evaluation Commission with respect to applications for asylum or refugee status to the person or object of humanitarian aid;
- The figure of the volunteer tutor (where present);
- In some contexts there is the Regional Ombudsman for the Rights of the Child Adolescence (at regional level).

----- **ANALYSIS OF NEEDS. KEY ELEMENTS** -----

Health issues - Different protocols provide individual health assessment activated for the child's protect and in order to his/her inclusion in a community settings, as an element of protection of groups and operators.

Documents – Obtaining the documents it 'a decisive aspect for any form of future step.

The psychological state and cultural mediation - The language difficulties are the first obstacle for a proper assessment. All good practices highlight the need for the involvement of cultural mediators and experts capable of an assessment of the state of mental health. It highlights the critical nature resulting from the overlapping of various traumas for these minors: the abandonment of their land, the undertaken journey, the contact with the new culture, etc.. As regards the cultural mediators, it is important to understand the difference between the translation of the meaning of a words and the ability to put in contact and communication two cultures.

The life project

The reality faces with a long timing, we speak about months, that pass before there are grounds for the construction of the project life. When we speak about adolescence 8/12 months is a long period particularly in situations where there is urgency: the children who arrive in Italy are in a real situation of urgency with respect to the implementation of their plan: their wait is yet another and especially unexpected obstacle. These minors are definitely on their arrival already “adults” and the contact with our society/culture takes them to the level of “teens” from which it is then necessary to help to recover for the construction of a project of independent life where few people could support.

The work with these minors to draw up a shared plan of life is a complex and full of nuances action that take decisive value which therefore requires a sufficient level of confidence and needless is to stress that can only be the result of a process that requires time characterized by faith.

Much of the various policies put in place does not find funding lines continuously. It almost always goes for projects and there seems to be an absence of a real desire to implement services that become organic to the service system. In fact, it seems that the whole system of immigration integration is focused on the assumption of the temporary nature of the phenomenon.

----- **FAMILY TRACING** -----

Institutional level - In Italy there is an active collaboration among the public entities and a key role is played by the Ministry of Labor and Social Affairs - Directorate General of immigration and integration policies, which currently employs IOM - International Organization for Migration for the investigation on the family of the unaccompanied foreign minors in the countries of origin.

Objectives - The family surveys are very important to know the context of the minor (family, school, work). In fact, the "family tracing" allows municipalities that are in charge of minors to get a "framework" of the family and social background of the child and all these elements give the possibility to enable social workers to prepare a draft of a possible integration plan or a reintegration one in the country of origin.

Local levels - An example of activation of family tracing, realized thanks the cooperation between the facility where UFM's are placed and the Municipality describes the relapse o the territories of the real actions with minors (Project AZIMUT, Verona). The procedure starts with an initial telephone contact made with the child, in the presence of:

- social worker of the Municipality;
- coordinator of the host facility/educator
- Linguistic-cultural mediator.

The first call is the first effort to inform/reassure the family that the child is placed in a protected structure and followed for legal and education aspects (school, sports, health issues, etc.). It also aims to create a first contact between family, facility and social service which will then be maintained over time on a regular basis.

This contact allows to ask for information on the family and specifically: where the parents live, the social and economic context, the occupation of the father and possibly the mother, the address and contact telephone numbers for the tracing of family, family size, etc.; this information is finalized the drafting of a report which will then be sent to the national authorities (Ministry of Labor and Social Policies, the Civil Court and the Police). This call also serves (in countries which are active

international agreements) to alert the families that they will receive a visit from a representative of an local NGO with the task of drawing up a report (survey of family) to be sent to the Italian Ministry and social services.

It's then made a second call when educators and services have defined a clearer "picture" of the situation and may confer with the family going to detail the proposal of integration/inclusion for the child. Depending on the age of the child will begin to "make assumptions" by requiring the sharing of an individual project and calibrated over the minor.

Particular attention in these contacts should be given to cultural aspects.

During the following weeks the family contact will be continuous to inform (every 2-3 months) on the evolution of the individual plan of the child, often helping the child to accept the situation for which it can immediately start working with (it will be a priority to develop some tools: acquisition of the Italian language, professional skills, middle school, etc.).

The continued involvement of the family in life project (called in Italy PEI - Individualized educational project) allows a support to the children in their choices. The sharing with parents has a great impact for the acceptance of the project; the family becomes a resource and feeling involved could give serenity to the minor.

It is very important to emphasize that children frequently have the entire family or some members already present on Italian territory which often act as a motivating agent for the acceptance of the proposed/shared PEI. At the same time the tracing of these people is difficult for an initial and understandable mistrust. Children need to trust the educator, the social worker.

Sometimes it happens also that the lack of funds, however, imposes inappropriate local reunions that do not correspond to the best interests of the child.

Penal level - In case of commission of crime also the decentralized services of the Department of Juvenile Justice activate actions dedicated to the family tracing both in the country of origin and/or on the territory. The realization is activated through the cooperation of: the Social Services of the City, the territory child protection services, Office of Juvenile Social Services, mediators/ culture, Consulate of the Republic.

The true identity of the minor becomes a resource for information about parenting and references and the same request of the Services to the parents to be able to acquire documents of the child represents the possibility to activate projects.

The schools and their difficulties - At school level, the situation becomes more intricate and difficult (in reference to the relationships with parents/relatives in the area with whom the child lives). As shown in a practice used by a Comprehensive School of Ferrara, the relationships with families are often governed by procedures contained in welcome protocols that provide:

- translation of the forms in the language of the immigrant family in cases where no member of family speaks Italian;
- translation of school notices;
- presence of a linguistic mediator in the classroom or during school-family relations;
- literacy courses for students during normal school hours, taking advantage of teachers within the school or volunteers with specific qualifications;
- literacy courses aimed at family members concerned.

But the reality, due to the lack of funds, is much more difficult. For example among the major problems is found then the realization of the talks with the parents that take place without the help of cultural mediators; parents poorly Italian speakers ask help to their children or to friends/relatives.

Strengths - Macro level

- Sensitivity of the institutions
- Local good practices
- Operators directly involved highly motivated
- Purposeful ability and implementation capacity of the non-profit sector
- Widespread level of skills and awareness

Strengths - Micro level

- Sensitivity of the operators of residential structures
- Availability of those Entities that manage the plan
- Good territorial and local relationships
- Involvement of the family which is located in the country of origin for the construction of the project life on the minor
- Tracing of parental figures on the territory or in close areas

Weaknesses – Macro level

- Existence of many good practices but at territorial level
- Lack of definition of specific skills for the key figures of the cultural mediator and ethnopsychiatry
- Lack of previous figures in organic plants of Local Health and Human Services
- Lack of stable structures
- Presence of projects that are short or medium term
- Extension of the responses by the competent Authorities as Consulates, Embassies, Prefectures, ministries, etc..

Weaknesses – Micro level

- Financing sources of term (short and medium)
- Excessive turn-over of the operators linked to operational stress and to lack of job stability
- Field School: involvement of children as facilitators with the families in the absence of mediators (no €)
- Urban policy that does not promote integration between cultures but the creation of ghettos

Opportunities – MACRO level

- European projects
- Boost to the improvement of people and of associations
- Widespread presence of Catholic shelters

Threats – MACRO level

- Fragmentation of the territories
- Discontinuities and differences among the regions
- Funding to project without a future general implementation of the practices (local and sectoral levels)
- Fragility/absence of structures that serve as authoritative reference on the territory
- Building of networks not considered as needful systemic action

Opportunities – MICRO level

- Ability to create synergies on the single human case
- Widespread of voluntary sector

Threats – MICRO level

- Lack of synergy between NGOs and Social Services of the countries of origin
- Lack of funding
- Lack of established networks