

Italy's 'Zampa' law: increasing protection for unaccompanied children

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Italy has enacted comprehensive legislation to protect the rights of unaccompanied children arriving in Italy. While flaws remain in Italy's treatment of these particularly vulnerable migrants, the country's protection-focused approach sets an example to other countries.

In March 2017, Italy became the first European country to legislate a comprehensive framework protecting unaccompanied children. Close to three years after the bill was first introduced, and following concerted advocacy by human rights organisations during the parliamentary process, the 'Provisions on protective measures for unaccompanied foreign minors'¹ was passed with a large majority. It is referred to as the 'Zampa' law after the Italian politician who proposed it, and its provisions are based on extensive experience in the field with unaccompanied children and on international child rights principles.

Hailed by the United Nations Children's Fund (UNICEF) as a model for other European countries and described by Save

the Children as the "most elaborate system for child protection in Europe", the Zampa law emerged in response to the large numbers of unaccompanied children travelling across the Mediterranean Sea to Italy. Between 1 January and 31 December 2017, 15,779 unaccompanied children entered Italy by sea.² These children come predominantly from African countries, Bangladesh and Syria and many recent reports have illustrated the difficulty and desperation of their journeys, the sexual and physical abuse they often encounter, and their vulnerability to human traffickers.³

The European Union (EU) has taken a number of steps to address the protection needs of unaccompanied children, including revising both the Common European Asylum System and the EU Return

Directive, and implementing its Action Plan on Unaccompanied Minors 2010-2014.⁴ Notwithstanding these actions, and despite the efforts of some EU states, many countries lack specific laws or comprehensive frameworks to address the protection needs of unaccompanied children.

The law's provisions

The Zampa law's articles create and amend various procedures relating to the reception and treatment of unaccompanied children in Italy, and guarantee them a minimum level of care. Importantly, the law reflects several fundamental rights from the United Nations Convention on the Rights of the Child, including rights to health care and education, legal representation, and to be heard during judicial and administrative proceedings. It also incorporates the best interests of the child principle.

The law's first article recognises the special vulnerabilities of unaccompanied children and guarantees them the same rights and protection afforded to Italian and other European children. Another article introduces an absolute prohibition on the return or removal of any unaccompanied child from Italy, unless ordered by a court in exceptional circumstances – and only where no serious harm would befall the child. The law requires identity procedures to be carried out on arrival of an unaccompanied child in Italy, and an inquiry to be conducted to determine what future actions will be in the child's best interests. Where there is reasonable doubt over a child's age, age determinations may be carried out, but should use the least invasive methods possible. Identification procedures should be concluded within ten days and be carried out in primary reception facilities. Facilities must meet minimum standards to ensure the child is adequately accommodated and their fundamental rights protected. After 30 days children should be transferred to secondary centres within Italy's System for the Protection of Asylum Seekers and Refugees (SPRAR).

The law provides that unaccompanied children must have access to the Italian

National Health Service during their time in Italy, and be admitted to educational institutions. They also have a right to be informed about legal representation, which should be provided free of charge, funded by the state. Other articles of the Zampa law amend or introduce procedures regarding family reunification, the provision of residency permits, access to foster care, the training and appointment of guardians, and assistance for victims of human trafficking. The law also provides for the creation of a national information system, which is designed to keep track of unaccompanied children in Italy and includes information on their location and their individual needs.

Implementation challenges

Although this law represents a positive step and an example for other countries, ensuring its effective implementation is likely to prove difficult. Providing unaccompanied children with sufficient accommodation, guardianship, health care and education, among other things, requires sufficient funding and capacity. Unfortunately, the quality and availability of these services in many places in Italy continue to fall below the standards envisioned. These are exacerbated by continuing inefficiencies in Italy's reception system which the Zampa law does little to rectify, and which result in most unaccompanied children being accommodated in Sicily and Calabria. Many are denied access to the SPRAR system, and stay in primary reception facilities for extended periods or in temporary reception centres. Frustrated by overburdened services in these regions, poor accommodation, prolonged waiting times and a lack of information regarding asylum and family reunification procedures, unaccompanied children often disappear from reception centres and try to reach other parts of Italy or Europe. Doing so exposes them to further risks of abuse and human trafficking.

Mindful of these challenges, Italy is taking steps to improve implementation. A law passed in December 2017 further addresses guardianship procedures, while measures to increase reception capacity

February 2018

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and the number of available guardians are being developed.⁵ Efforts to develop and disseminate best practice are also planned, as is continued collection of detailed data.

The vulnerabilities of unaccompanied children make it essential that States develop and effectively implement rights-based frameworks for these children's protection. Existing gaps in laws may result in unaccompanied children being treated in ways that are inconsistent with their rights under international law. While significant gaps and deficits remain in Italy's treatment of unaccompanied children, its passing of the Zampa law shows that the country is taking concrete legislative steps to afford such children the compassion and protection they deserve. Many other countries that are major destinations for unaccompanied children have yet to pass laws that match Italy's rights-based protections. The United States, for example, routinely returns Mexican unaccompanied children without adequate screening for asylum claims or trafficking,⁶ while unaccompanied children

in South Africa are often unable to access basic services and asylum procedures.⁷ As the international community progresses towards the Global Compact on Refugees and the Global Compact for Migration, all countries must pay special attention to the protection of children, and address policies and practices that put them in danger.

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