

2017

# Unaccompanied And Separated Children along Italy's northern borders

INTERSON



Handwritten notes on a piece of paper, including the word "I love you" and a list of numbers: 20, 29, 30, 38, 14, 24, 27.



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# Executive Summary

Unaccompanied and separated foreign minors have been arriving in Italy for several years. The total number of minors intercepted and registered with Italian authorities over the past six years is 62,672<sup>1</sup>. Since 2011 the number of UASC (Unaccompanied And Separated Children) has risen constantly from year to year, up until a slight fall recorded in the first seven months of 2017 (compared with arrivals in the same period of 2016), with the arrival of 12,656 unaccompanied minors, making up 13% of the arriving migrant population over the past year<sup>2</sup>.

**Among registered UASC, one in four left reception facilities, and became untraceable<sup>3</sup>. Such a high dropout rate from centres on the part of minors is chiefly due to the desire to go directly to other States in the European Union. This is partly due to the dysfunctions of Italy's reception system and to the time needed to start and complete the procedures for family reunification and the granting of international protection.**

**In view of the “irregular” nature of these people's status, not in the sense of unlawful presence in the country but rather that of straying from a planned course, characterising the state of migrants in transit, who appear to form a sort of “underground people”, these migrants, including minors, do not receive any sort of temporary reception or formal support. This category, present *en masse* in reality, is not legally contemplated or recognised as such. Thus this group is not governed by any particular rules, and does not receive any protection, including services meeting primary needs.**

In such a setting, there is a clear use, and need, for activities in support of emergency measures adopted by institutions, humanitarian organisations and civil society.

Since 2011 Intersos has been operating a night-time reception centre in Rome called A28 for foreign minors in transit. In five years the centre has provided a safe shelter for more than 4,000 unaccompanied foreign minors in transit in Italy. In 2016 the A28 Centre hosted 1,112 unaccompanied minors from Eritrea, one third of all those arriving in Italy in the same year. Working closely with the centre is the Intersos Street Unit service, created in November 2016 in partnership with Unicef, in order to monitor the territory, promote the service and single out the most vulnerable cases.

Following on from this initial project, over the past two years Intersos has broadened its action in the sphere of reception and assistance for unaccompanied foreign minors transiting in Italy or dropping out of official reception channels.

In March 2017, in collaboration with Unicef, initiatives

were also undertaken in Como and Ventimiglia, in light of the increase in migrant flows in the respective border areas, with the consequent intensification of border checks on the part of neighbouring States and a growing number of “rejected” people in Italy, who are forced to face a stalemate situation with very few prospects.

The Como and Ventimiglia projects intend to facilitating the take into care of intercepted unaccompanied foreign minors, 1,070 in Como and 1,418 in Ventimiglia, through the providing of information, support and legal aid. Thanks to collaboration with local organisations and reference institutions, ad hoc pathways for UASC are activated, where possible, starting with access to the international protection application procedure, and including admission to second-stage reception facilities. In Ventimiglia furthermore, a mobile clinic has been operational since April 2017, offering basic medical care to persons outside the reception centres. The most relevant cases in terms of the seriousness of violations committed or complexity of individual cases have been taken up in collaboration with the Associazione per gli Studi Giuridici sull'Immigrazione (Association for Legal Studies on Immigration). As regards family reunification procedures, collaborative ties have been forged with the Safe Passage initiative.

Thanks to the support of the Open Society Foundation, the conditions of unaccompanied foreign minors have been monitored along Italy's northern borders, from August to October 2017.

This report is the result of this monitoring activity. The research was conducted in connection with the above-described actions, making use of the material gathered during these activities, consisting mainly of direct interviews with minors in Rome, Como and Ventimiglia and information procured by constant dialogue with institutions and the actors of civil society operating in the sector. In localities where an Intersos team is not present on a permanent basis, the research was conducted by means of monitoring visits, interviews with migrants, meetings with the authorities responsible for managing the migratory phenomenon, and counting on permanent cooperation with local associations.

<sup>1</sup> Source: Ministry of Interior, department for Civil Liberties and Immigration, <http://www.libertaciviliimmigrazione.dlci.interno.gov.it/documentazione/statistica/cruscotto-statistico-giornaliero>

<sup>2</sup> UNHCR, Italy - Unaccompanied and Separated Children (UASC) Dashboard, July

<sup>3</sup> Source: Ministry of Employment and Social Policies

# Introduction



**T**he state of particular vulnerability that characterizes the condition of the migrant and is intrinsic to that of the minor is exacerbated by the contribution of these two conditions.

**When, having escaped from their own country, at the end of a terrifying journey that may have taken years<sup>4</sup>, they finally reach their destination, migrants find themselves catapulted into an unknown reality, dazed and bewildered, often assisted upon their arrival but also classified, taken, separated, transferred, and usually forced to wait for a long time in reception centres or abandoned in the streets.**

Difficulties are only compounded by being faced by such a situation while still not an adult, suffering a state of abandonment owing to being away from one's family.

The reasons behind these people's decisions to leave their own country relate to the need to escape from situations that are often infernal, and to the desire to make a new

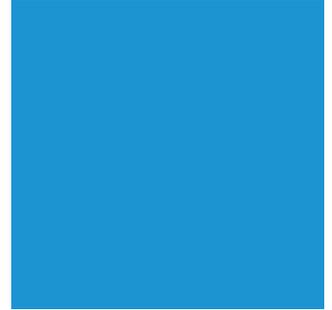
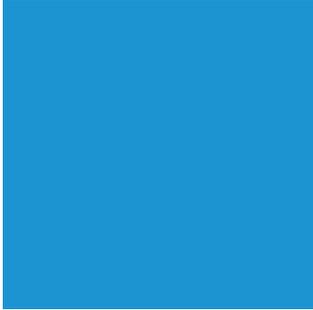
life through education and work<sup>5</sup>, far from the violence or hardships they experienced as they were growing up.

**Is undeniable that the state of persons in transit, with special reference to minors, has been accompanied by a worrying contraction of the rights accorded to them, and in the usability of such rights. The existing regulatory framework indeed is scarcely flexible and does not allow a smooth balance between the instances of protection of the child and his or her expectations.**

European migration policies are marked by a strong focus on securitization. The migratory phenomenon is therefore considered, treated and regulated chiefly as a matter of public order and through the optics of control. The consequence of this type of approach and vision leads to a system based on analysis and management with generally inhuman features, as it negates the subjectivity of individuals. It does not seem to be contemplated for these persons the possibility

<sup>4</sup> REACH, *Children on the move in Italy and Greece*, "On average, children who arrived in Italy travelled for one year and two months between leaving home and reaching Italy... Repeatedly in group interviews, children reported to have been kidnapped by armed groups, who brought children to compounds called 'connection houses' in order to extort money from children's families, or force children to work in hard physical labour. Children spoke of their time spent in 'connection houses' as the most dramatic experience of their life. 'Connection houses' were described as open compounds, where a large number of people were kept in captivity, sometimes in underground basements. Children described to have witnessed daily tortures, killings and sexual violence; all children reported having been beaten, burned and tortured, and many of them were still wearing the signs of these tortures. Tortures usually followed the failed attempts to escape from connection houses".

<sup>5</sup> UASC are subjected to considerable pressure, including that of meeting their families' expectations. Often the family is obliged to go into debt to finance the journey. This has worrying blackmailing possibilities. Once in Italy, UASC are intent on finding educational and working success. This has an important psychological effect on their state of health.



of lawfully pursuing their aspirations, attempting to realise their personal realisation. This is treated like an unaffordable luxury. It should however be realised that it is the work of many migrants, often prisoners in a state of illegality, from which it is difficult to escape (also due to the difficulties in offering protection provided for by law), on which relevant economic circuits are based, a systematic and well-established system of exploitation akin to that of slavery<sup>6</sup>.

**The policies being implemented at this time and the dynamics for controlling the migratory phenomenon are often accompanied by appraisals and actions that are irreconcilable with a democracy founded on the recognition of and respect for fundamental rights. Agreements have been entered into, indeed, to control migratory flows and reduce the number of people arriving in Europe, with countries where the violation of fundamental rights, torture and other inhumane practices are the norm<sup>7</sup>.**

It is common knowledge that current legislation in Europe (in particular the Dublin III Regulation) is inappropriate as regards the rational management of arrivals and flows, in respect of the enormous scope of the migratory phenomenon.

The flow of the persons in transit along the entire Italy's northern borders involves also unaccompanied and separated children.

With Member States strongly resisting a radical revision of rules and criteria on the subject of reception and care of migrants within the EU, it has led to the impossibility to adopt specific and adequate measures in respect of the condition of those in transit who, adults and minors alike, appear to be destined to a "state of invisibility".

<sup>6</sup> European Union Agency for Fundamental Rights, *Severe labour exploitation: workers moving within or into the European Union, States' obligations and victims' rights*

<sup>7</sup> Italy has signed a number of bilateral agreements, most recently that with Libya, for the management of migration flows, including the Khartoum Process and a number of Migration Compacts between the EU and transit states, such as Jordan, Lebanon, Niger, Nigeria, Senegal and Mali. The EU and Turkey also reached an agreement on 18 March 2016. The basic aim is to stop migration flows by offering support with border controls, all with a view to stopping transits to Europe. For greater details, refer to the document: ARCI, *documento di analisi, Le tappe del processo di esternalizzazione del controllo alle frontiere in Africa, dal Summit della Valletta ad oggi.*





# Migratory Flows and Routes

## The UASC population is difficult to quantify, yet for most of these Italy remains a transit country

**E**xhaustive data on global arrival figures, in particular movement via land or air, are not available. This gap is made larger by the existence of movements within the network of traffickers, and by the fact that some minors attempt to remain invisible for fear of being blocked in an undesired situation. The figures given below are therefore underestimating the actual extent of the phenomenon.

According to the analysis of 2016 data, 25,846 children arrived in Italy. As of 31 December 2016 the global number of unaccompanied minors admitted to the reception circuit was 17,373, and there was no trace of 6,561 UASC<sup>8</sup>. The main countries of origin of untraceable UASC are: Egypt

1,468 (22.4%), Eritrea 1,381 (21%), Somalia 1,251 (19.1%), Afghanistan 653 (10%) and Nigeria 275 (4.2%). 2017 figures confirm this trend: out of a total of 17,864 UASC, 5,226 have dropped out of formal reception channels, mostly from Egypt, 1,045 (20%), Eritrea, 899 (17.2%), Somalia, 878 (16.8%), Afghanistan, 549 (10.5%) and Guinea, 298 (5.7%)<sup>9</sup>.

By 31 July 12,700 UASC had arrived in Italy in 2017, 13% of all migrants arriving by sea<sup>10</sup>.

The transit to northern Italy and then to other EU States is a phenomenon that has been growing since 2015 in relation to the permeability of borders. If we look at the map, we

<sup>8</sup> Ministry of Employment and Social Policies, *Monitoring Report, I MINORI STRANIERI NON ACCOMPAGNATI (UASC) IN ITALIA*

<sup>9</sup> Ministry of Employment and Social Policies, *Monitoring Report, I MINORI STRANIERI NON ACCOMPAGNATI (UASC) IN ITALIA*

<sup>10</sup> UNHCR, *Operational Portal, Sea arrivals*

2016

25.846 

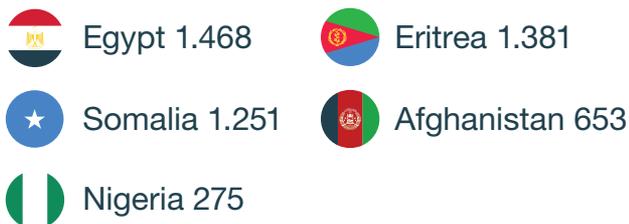
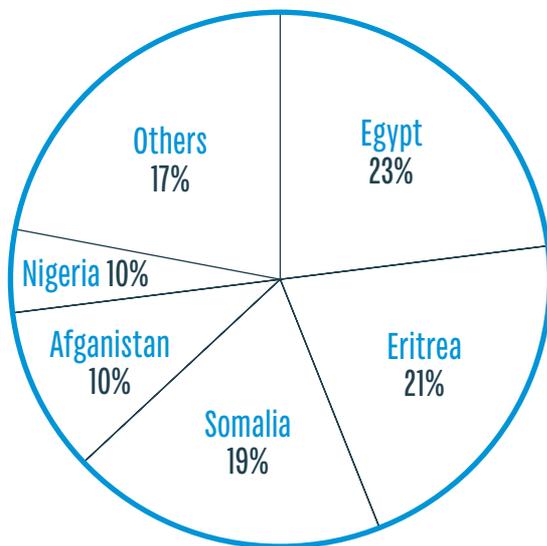
children arrived in Italy

17.373 

UASC in the reception circuit

6.561 minors are untraceable

countries of origin of untraceable UASC



2017

12.700 

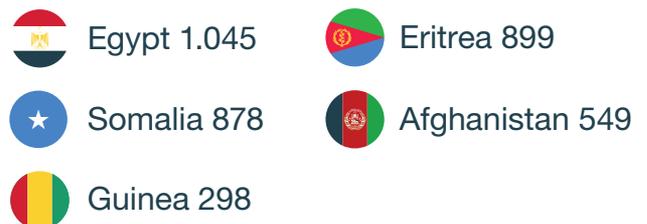
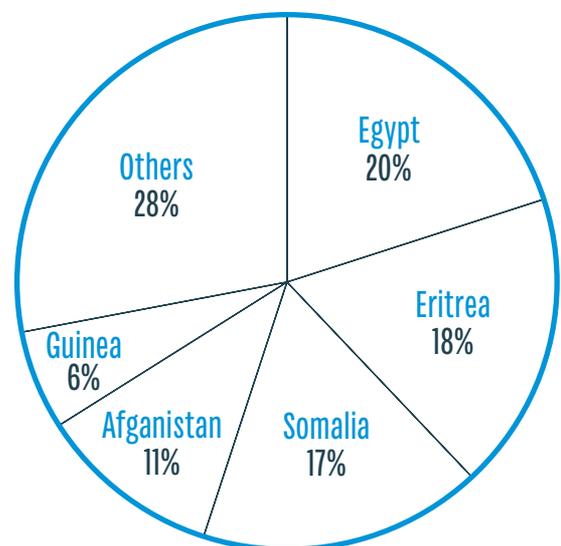
children arrived in Italy

17.864 

UASC in the reception circuit

5.226 minors are untraceable

countries of origin of untraceable UASC





can see that this mainly outgoing flow, except for the borders with Slovenia and Austria, which are also affected by arrivals from the Balkan Route and by return flows to renew residency permits or following the rejection by other European States, affects the entire northern border of Italy.

This phenomenon is borne out by applications for international protection filed in Italy by UASC (4,010), much lower than the actual number of arrivals. This highlights that the procedure for international protection, considering also the organisational and operational disfunction of the reception system, often ends up being an instrument not sufficiently responsive to the actual needs of the applicant, due to the length of waiting times and the dearth of existing services.

There is a similar situation for family reunification applications, the length of which places UASC in a state of prolonged hardship that may lead them to decide to leave formal reception channels. Of the 14,229 applications filed in 2016, just 61 resulted in the successful reunification of the UASC<sup>11</sup>.

The main exit localities are Ventimiglia, Como and the Brenner Pass. The figures fluctuate, depending on the period and the actual possibility of crossing the border. The

variable nature of the phenomenon makes monitoring and detailed analysis complicated, in view of the impossibility for those in transit to use legal pathways for this passage.

The journey faced by these children to reach Italy entails the separation from their family and the start of a path that is often punctuated by violence and exploitation<sup>12</sup>.

<sup>11</sup> AIDA, *Country Report Italy, February 2017*

<sup>12</sup> Medecins Sans Frontier, *HUMAN SUFFERING, Inside Libya's migrant detention centres*

## Afghanistan

*“After four years travelling, two of which in Turkey, spent making bricks to earn some money and carry on my journey, I arrived in Patras, in Greece. I was in the “garage” for almost a year, waiting for my turn, and for a truck under which I could hide. My opportunity came in July, I jumped over the fence, and hid beneath the truck, practically in the engine. I had put on four pairs of jeans, but even so the heat of the engine was so strong that it burned my skin. Once on the ship, I stayed under the truck in the hold during the night crossing. The air was unbreathable. I have never been so afraid of dying as that day. Once I arrived at the port of Ancona, I ran away as quickly as possible.”*

## Eritrea

*“My journey has lasted 2 years so far. I crossed the Sudan border on a truck with another 200 compatriots, it was a cattle truck. To get to Libya and survive in that setting, many kept awake by drinking a mixture made with battery acid. In Libya I was kept in a detention centre for 2 months, before getting to the dinghy, which took us to sea.”*

## Guinea

*“I paid a lot of money to get to Libya. There I was kept for three months in a detention centre. They tortured me, hit me, humiliated me. I was only 15. Now I don’t have any front teeth left, and it’s difficult to eat solid foods. Suddenly one day they opened the area where they kept us “blacks”, and they let me go. My first thought was to go to the Mosque. When he saw me coming, in such a bad way, the Imam cried with me. He helped me and paid for my trip on the dinghy. We were at sea for four days, I was terrified, as I can’t swim. As soon as the Italian ship could be seen in the distance, the people around me began to get nervous, and I ended up in the water. The life jacket really did save me. I fell unconscious, but on the ship they brought me round again. As soon as the ship reached Sicily, they transferred me immediately to a hospital, due to my poor state of health.”*

## Somalia

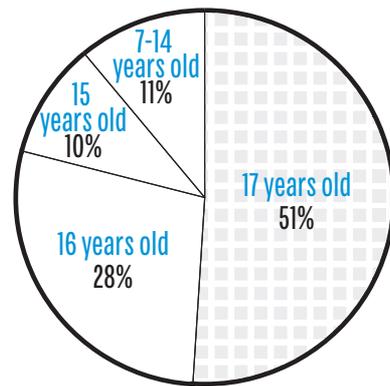
*“From Somalia I went to Egypt with the aim of arriving in Europe via Turkey and Greece. My family sold everything they had to buy me the trip with the traffickers. Arriving in Egypt, I was hidden in a garage for months, without seeing the light of day, until it was my turn. The traffickers decided it would be easier to go through Libya. There, in the dead of night, they loaded about 300 of us onto a dinghy. Seeing that I was young, a gentleman pretended to be my father in order to give me a better seat on the dinghy. He saved my life. Many people died, intoxicated by the petrol fumes of the dinghy’s engine.”*



# Profiling of the Unaccompanied And Separated Children population

93%  male

7%  female



*“Many of these children undertake the journey aware of the inherent risks”*

The flow of unaccompanied foreign minors arriving in Italy is mainly made up of males (93%). The largest age class is that of seventeen-year-olds, making up 50.6% of UASC present, followed by 16- and 15-year-olds (28% and 10.3% respectively), then the age group from 7 to 14 years old, making up 10.9% of the total<sup>13</sup>. Many of these children undertake the journey aware of the inherent risks<sup>14</sup>.



The main States of origin in relation to 2017 are Gambia (2,200 UASC), Egypt (2,187 UASC), Albania (1,686 UASC), Nigeria (1,339 UASC), Guinea Conakry (1,238 UASC) and Ivory Coast (1,003 UASC). Other nationalities represented are Bangladesh, Eritrea, Senegal, Mali and Somalia. As

regards minors in transit, there is a high percentage of Somalians and Eritreans and, in the north-east in particular, of Afghans and Pakistanis, as can be seen from data on minors hosted in reception facilities<sup>15</sup>.

As for the female component, consisting of 1,131 individuals, the main nationalities are those historically affected by the trafficking phenomenon: Nigeria, Eritrea and Somalia<sup>16</sup>. This marks a rise in the phenomenon this year: in 2016 566 underaged girls arrived in Italy; the nationalities remain the same, but the rise in numbers has been exponential. It should be noted that for persons involved in trafficking it is more difficult to obtain exhaustive data, since the journey and its continuation in Europe have already been organised by traffickers in the country of origin, so as to avoid the loss or disappearance of the girls involved.

**The main causes that induce foreign unaccompanied minors undertake this journey are violence, war and exploitation (70%), or the absence of adequate means of sustenance to survive in their country of origin (48%)<sup>17</sup>.** The initial plans of UASC are often upset by the situations they find themselves in once they have left their country of origin<sup>18</sup>.

<sup>13</sup> UNHCR, Italy - Unaccompanied and Separated Children (UASC) Dashboard

<sup>14</sup> REACH, Children on the move in Italy and Greece, “Nearly half (47%) of UASC reflect on the dangers of migration before leaving. When they do so, they appear to be well informed about the dangers of being killed (42%) or of drowning in the sea”

<sup>15</sup> Ministry of Employment and Social Policies, Monitoring Report, I MINORI STRANIERI NON ACCOMPAGNATI (UASC) IN ITALIA

<sup>16</sup> Ministry of Employment and Social Policies, Monitoring Report, I MINORI STRANIERI NON ACCOMPAGNATI (UASC) IN ITALIA

<sup>17</sup> REACH, Children on the move in Italy and Greece

<sup>18</sup> REACH, Children on the move in Italy and Greece: “Reasons for such changes of plan were often motivated by the inability to find work or the dangerous situations children found themselves in in West and North Africa. Among children who had previously planned to stay in neighbouring West African countries, their change of plans was mostly motivated by their inability to find work, as commonly reported by children who stayed for some time in Burkina Faso, Senegal and Algeria. Among children who had reached Libya to find work, the majority decided to leave the country due to the systematic violence they had witnessed, both against themselves and others, as reported by 63 per cent of children who had originally planned to remain in Libya.”

## Afghanistan

*“My country is not somewhere you can live, there you can only die. My father was killed by the Taliban. I, my mother and two brothers escaped to Pakistan. We had nothing: no home, no things, no future. When I was 12 my mother left me with some “Pakistanis who would help me”. That day was the start of the longest journey of my life. I am now 17, and have been in Italy for more than a year. I would like to get to my cousin, who is in Sweden. It’s the third time I have tried.”*

## Eritrea

*“I was a child soldier. All of my brothers, my cousins, my friends are soldiers. I grew up with weapons, that is why I am afraid of them, I have seen many people die, the suffering of families, torture. I will never forget those looks. I don’t want to make other people suffer. I escaped, because I had no other choice. I didn’t want to give my life to the dictatorial government.”*

## Guinea

*“I escaped from violence and hardship. Even living at home was dangerous. My father had four wives, my mother was always being maltreated by him. I and all my brothers were terrified of him, unfortunately to eat and survive we had to endure this violence. A couple of years ago an argument broke out in the village, and my father was killed. Although I had nothing to do with it, my life was in danger. I went and hid in the forest, I knew they were looking for me. I don’t even know how I managed to survive, I was only 14 and alone in the forest. I ate anything I could, and walked for 10 days, until I met a group of shepherds. I worked with them for eight months, they helped me to hide, and accepted me in their group. Thanks to them, at the age of 16 I started out on the journey to Europe.”*

## Somalia

*“My country is very poor, and very dangerous. I grew up escaping from house to house, my father is no longer here, and my mother tries to protect my two brothers and sister. For 2 years we lived at my uncle’s house, until he was killed by the Shebab, Islamic extremists related to the Al Qaeda movement. From that time on the situation worsened for me and my family: too many mouths to feed, too hard for my mother and aunt to get by. I was the eldest boy, so at the age of 15 I decided to leave. I am dreaming only of a safe place to live, and to have the possibility of working and helping my family in Somalia. I speak to my mother once a week, when it’s not possible I feel bad, because I am afraid for them.”*



# Legal Framework



**L**egislation currently in force, both international and national, offers special protection to UASC, having created a comprehensive system to take care of the minor. This imposes by law the minor's protection, sustenance and development of mental and physical wellbeing, encouraging his/her integration in society and ensuring the fulfilment of educational obligations. Ad hoc figures and reception and support circuits are also created, as well as means and procedures for reunification with their family.

The potential and effective use of protection provisions, guarantees and services provided for by the legislation may prove difficult and complicated to achieve.

With regard in particular to so-called minors "in transit", problems typically relate to the difficulty in applying provided protection rules to these persons.

Discouraged by the length of time needed to respond to family reunification and relocation applications and by the

absence of facilities that can ensure adequate hospitality and assistance, many migrant children prefer to drop out of official and formal pathways, also in view of the difficulty of dealing with a rigid protection system that is alien to the reality they are coming from, and attempt to reach other European countries on their own<sup>19</sup>.

The best interests of the minor is a principle established as a main criterion for the taking of all decisions relating to the minor in the Convention on the rights of the Child, signed in New York in 1989 and ratified with Law 176/1991. Given the "universal" scope of rights set forth in the Convention, establishing in article 2 the "principle of non-discrimination", the above criterion is valid, and is applicable to all minors, including UASC<sup>20</sup>.

**The importance ascribed to the best interests of the child is absolute, thus the consideration of this aspect overrides all other legitimate claims, including the**

<sup>19</sup> UNHCR, *Desperate Journeys, Refugees and migrants entering and crossing Europe via the Mediterranean and Western Balkan routes* "The desire to join family already granted protection in Europe, along with the length of family reunification procedures, is one reason why some travel irregularly to Europe. UNHCR, the Council of Europe Human Rights Commissioner, and many others have noted the multiple obstacles that prevent refugees from being able to utilize the channels intended for this, including preventing or delaying beneficiaries of subsidiary protection's access to family reunification, the application of limited definitions of family by some States, and difficulties accessing embassies abroad."

<sup>20</sup> Art. 3, para. 1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration

## interest of States in imposing controls and limitations, for public security and order, on migratory movements<sup>21</sup>.

**This criterion is frequently and seriously evaded by many European States**, as the provision of article 20 of the Convention is almost systematically breached<sup>22</sup>, imposing on States a general obligation to protect minors who are deprived of their family environment for various reasons. This provision, to be read in close connection with art. 22 (the only provision of the 1989 Convention regarding UASC in particular)<sup>23</sup>, imposes the obligation, based on the supposed vulnerability of the minor as such, of the State “taking care” of the minor, and providing special aid, giving concrete support to such protection. States often fail to fulfil this obligation, getting around it in various ways, starting with the non-formal recognition of the actual age of persons intercepted by police forces<sup>24</sup>.

With regard to the “substitute” form of protection, primarily consisting of the formal custody of the minor assigned to an adult, including that of Italian authorities, it is noted that more than being a valuable instrument for making protection as concrete as possible, safeguarding the mental and physical wellbeing and the subjectiveness of minors, this is used as a “subterfuge”, with custody of the minor arranged hastily and superficially, in order to get around what are perceived to be burdensome assistance obligations. **Thus the best interests of the minor are not taken into consideration at all, being brushed aside by the concrete interest in “discarding” or “setting aside” the person, reducing him to an “incumbency” to be discharged as soon as possible.**

In the same way, border countries tend to ignore the



provisions of the Convention regarding the protection of the minor’s affective and family ties, especially with regard to the facilitation of family reunification procedures<sup>25</sup>.

Community legislation that needs to be considered in this regard is Regulation no. 604/2013 (so-called Dublin III Regulation), even though its provisions are often completely ignored, particularly article 6, which introduces specific guarantees in favour of minors:

*“1. The best interests of the child shall be a primary consideration for Member States with respect to all procedures provided for in this Regulation. 2. Member States shall ensure that a representative represents and/or assists an unaccompanied minor with respect to all procedures provided for in this Regulation. [...] 3. In assessing the best interests of the child, Member States shall closely cooperate with each other and shall, in particular, take into due account*

<sup>21</sup> General Comment No. 6 (2005), *Treatment Of Unaccompanied And Separated Children Outside Their Country Of Origin*, para. 86; as clarified by the UN Committee on child rights, with reference to the repatriation of unaccompanied foreign minors, “Non rights-based arguments such as, those relating to general migration control, cannot override best interests considerations”

<sup>22</sup> 1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child’s upbringing and to the child’s ethnic, religious, cultural and linguistic background.

<sup>23</sup> 1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

<sup>24</sup> UNHCR, UNICEF, IRC, *The Way Forward to Strengthened Policies and Practices for Unaccompanied and Separated children in Europe*: “In many countries, registration has often been incomplete or inaccurate. Children are either not registered at all, or not registered as unaccompanied or separated (as they are registered with other individuals), or they are registered as unaccompanied, even though they are traveling with extended family members, which in turn can lead to family separations. There is also the risk they are erroneously identified and automatically registered as adults or the children deliberately register as adults due to pressure/advice from the smugglers.”

<sup>25</sup> Art. 9, para. 3: “States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests.”

Art. 10, 1: “In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents.

*the following factors: a) family reunification possibilities; b) the minor's wellbeing and social development; c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking; d) the views of the minor, in accordance with his or her age and maturity. 4. For the purpose of applying Article 8, the Member State where the unaccompanied minor has lodged an application for international protection shall, as soon as possible, take appropriate action to identify the family members, siblings or relatives of the unaccompanied minor on the territory of Member States, whilst protecting the best interests of the child."*

Furthermore, art. 8, subsection 4 of the "Dublin III" Regulation states that in the absence of a family member, a sibling or a relative that the minor can be reunited with, the responsible Member State is that in which the unaccompanied minor has filed his application for international protection, provided that it is in the best interests of the minor. If the minor has filed more than one international protection application in different member States, the jurisdiction for examining the application lies with the State in which the minor is situated after having filed the application (ruling of the European Court of Justice, case C-648/11)<sup>26</sup>.

Thus under no circumstances it is possible to transfer the unaccompanied minor on the basis of the criterion of the first member State in which it is proved the minor arrived irregularly.

An important change to note regarding the Italian system is the introduction, for the first time, of organic regulation for the protection and taking into care of unaccompanied and separated children, as set forth in Law 47 of 7 April 2017, the so-called "Zampa Law", which came into force in May.

#### **The main changes are as follows:**

- the absolute prohibition from rejecting UASC at the border (this was already foreseen by the protection obligation of art. 20 of the New York Convention), with the introduction of subsection 1-bis to art. 19 of legislative decree 286/98 (subsection 2, letter "a" already governed the prohibition from expelling minors, barring the cases taken into consideration in art. 13 subsection 1 of the same legislative decree 286/98). The Zampa law also modifies subsection 4 of art. 31 of legislative decree 286/98, stating that: "If in accordance with the consolidated law a foreign minor has to be expelled, the decision is adopted, providing said decision does not entail a risk of serious damage to the minor, at the request of the Questore (police commissioner), by the Juvenile Court. The Juvenile Court shall decide in good time, and in any case within thirty days"
- the inclusion of unaccompanied foreign minors in the protection system for asylum seekers and refugees (SPRAR), with consequent changes to said system and the bringing of minimum service and assistance standards for facilities that will receive and host minors into line with those of residential facilities for minors. There is also the obligation of facility authorisation or accreditation in accordance with national or regional provisions
- reduction of the maximum stay in first-stage reception facilities from 60 to 30 days
- the minor's right to a residence permit or, in those cases governed by art. 10 letter "b", for family reasons
- the creation of a register of voluntary guardians
- the possibility for the minor to formalise the international protection application, while awaiting the nomination of a guardian, through the intervention of a temporary guardian, namely the head of the facility where the minor has been placed
- new rules for ascertaining the age of minors, with the use of methods characterised by a multidisciplinary and non-invasive approach

<sup>26</sup> ASGI, "Le ri-ammissioni di cittadini stranieri alla frontiera di Chiasso: profili di illegittimità" (The readmission of foreign citizens at the Chiasso border: claims of unlawfulness)

## Summary table of the main violations at the borders by France, Switzerland and Austria

Law Provisions	Ascertained Violations		
	France	Switzerland	Austria
<i>European Convention on Human Rights, art. 3: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment"</i>	From interviews with UASC rejected by France there appear to have been multiple cases of harassment against them, including the cutting of shoes, verbal and physical violence, arbitrary seizure of belongings and forced detention in inadequate places	From interviews with UASC we have gathered numerous cases of physical violence and inadequate treatment, such as having to strip naked in front of other people in order to be searched	
<i>Regulation (EU) 2016/399 (Schengen Borders Code) art. 3 and art. 4: compliance with fundamental principles of Community law and obligations pursuant to international law – guarantees in favour of refugees and international protection seekers</i>	Systematic, collective refusal of entry. No possibility of formalising international protection applications notwithstanding the clear show of will in this respect.	Systematic, collective refusal of entry. No possibility of formalising international protection applications notwithstanding the clear show of will in this respect.	Systematic, collective refusal of entry. No possibility of formalising international protection applications notwithstanding the clear show of will in this respect.
<i>Regulation (EU) 2016/399 (Schengen Borders Code) art. 14 (applicability of article for the re-introduction of internal border checks, as per article 32): refusal of entry</i>	As well as entry being refused, no decision is issued giving the grounds for said decision, depriving the party concerned of the possibility of initiating the relative appeal procedure	As well as entry being refused, no decision is issued giving the grounds for said decision, depriving the party concerned of the possibility of initiating the relative appeal procedure. In the rare cases in which the document is issued to the UASC, no explanation is given	As well as entry being refused, no decision is issued giving the grounds for said decision, depriving the party concerned of the possibility of initiating the relative appeal procedure
<i>Regulation (EU) 604/2013 (Dublin III Regulation) art. 3: access to international protection application procedure</i>	Access to the international protection application procedure is systematically refused	Access to the international protection application procedure is systematically refused	Access to the international protection application procedure is systematically refused
<i>Regulation (EU) 604/2013 (Dublin III Regulation) art. 6: guarantees for minors; UN Convention on rights of the child, 1989, articles 3, 20 and 22: best interests of the minor; protection of the minor deprived of a family environment, protection of minors seeking asylum</i>	The best interests of the minor is given no consideration at all. Minors are constantly refused entry, making it impossible to apply all the relative protection guarantees, with relative violations. A representative is not nominated, there is no mediation service, there is no special risk assessment (trafficking) and the possibility of family reunification is not examined	The best interests of the minor is given no consideration at all. Minors are constantly refused entry, making it impossible to apply all the relative protection guarantees, with relative violations. A representative is not nominated, there is no mediation service, there is no special risk assessment (trafficking) and the possibility of family reunification is not examined	The best interests of the minor is given no consideration at all. Minors are constantly refused entry, making it impossible to apply all the relative protection guarantees, with relative violations. A representative is not nominated, there is no mediation service, there is no special risk assessment (trafficking) and the possibility of family reunification is not examined



# The North-West

## Ventimiglia and French border:

The situation in Ventimiglia has been alarming for the past three years. It is often said that there is a “migrant emergency”. This is not so: we forget that this situation is the result of a number of organisational problems and of a lack of awareness regarding the structural nature of existing problems. The basic problem relates to the inertia of competent institutions, and to the ways in which the French border is managed. In Ventimiglia there is a centre for UASC with 10-12 places, and an agreement has been entered into with a CAS (Special Reception Centre) for adults, which can host up to 10 minors for a period of time not exceeding 7 days. In the whole of Liguria a total of 252 UASC have been taken into care up to August 2017<sup>27</sup>. More relevant and worrying data refer to UASC in transit.

Following terrorist attacks in Paris, in November 2015 France proclaimed a state of emergency, and re-introduced controls on internal borders, thus suspending the application of Schengen “Border Code” provisions. This possibility for member States signing the agreement is provided by Regulation 1051/2013, giving detailed provisions on procedures for the temporary re-introduction of border controls. In greater detail, the possibility of suspending Schengen agreements may be extended for up to three times, for a maximum period of 6 months. In November 2017 France will reach the maximum time limit regarding the suspension of the agreements<sup>28</sup>. **The consequences of this have been, and continue to be, the practical impossibility of crossing the border, tight border controls via land and the daily readmission of all “irregular” migrants intercepted while attempting to cross the border. Despite this no-go situation, Ventimiglia remains a transit town that attracts many people travelling to the western gateway in order to try and cross the border.**

There are three ways in which people attempt to cross the Italo-French border:

### 1 On foot; the best-known tracks are:

- the so-called “death path”, starting from upper Grimaldi and arriving in Menton. Taking this path, there are two alternatives: going down to the motorway, or going beyond, over the top of

- the hill, and arriving in the town of Menton.
- following the railway track in the direction of Menton
- travelling in the direction of Roya Valley, following the state road, then continuing along the railway line.

The risks are many, and easy to imagine, with serious incidents documented by news section<sup>29</sup>. Mountain paths are dangerous, and we have had news of a number of UASC who have been injured by falls. In view of the related risks, the path following the railway lines is not without danger.

### 2 By car

there is a known network of “passeurs” (smugglers), who organise paid journeys from Ventimiglia to France by car. The cost is around €150/250 per person. About 10% of this fee is paid to those recruiting the “client”, who put them in touch with the passeur.

### 3 By train

using two routes: Ventimiglia-Nice, and Ventimiglia-Cuneo, which crosses the Roya Valley. The second route is less used, chiefly due to a lack of knowledge of the territory, and because there are only two trains a day on this route.

The train is the means most used by youngsters notwithstanding the continuous controls undertaken by French and Italian police, both directly at Ventimiglia station, by virtue of bilateral cooperation agreements with Italy, to check trains going to France, blocking all passengers devoid of documentation, and at the first French station encountered, that of Menton Garavon. At this station there are always French police officers, who upon the arrival of the train get on (there are usually around five officers) and control it from top to bottom, inspecting every conceivable place where minors might be hiding, such as power cable conduits. These checks on the train conclude with the removal of all persons that do not have valid documents for moving within the EU, including UASC. When they are off the train, without the presence of an interpreter or mediator, they are transferred to the French border office and, if they are adults, are accompanied to Ponte San Luigi, an Italian Border Police station, otherwise, if they are minors, they are issued a document called “Refus d’Entree”<sup>30</sup>, and are put on a train going back to Italy.

The “Refus d’Entree” document issued to UASC by the

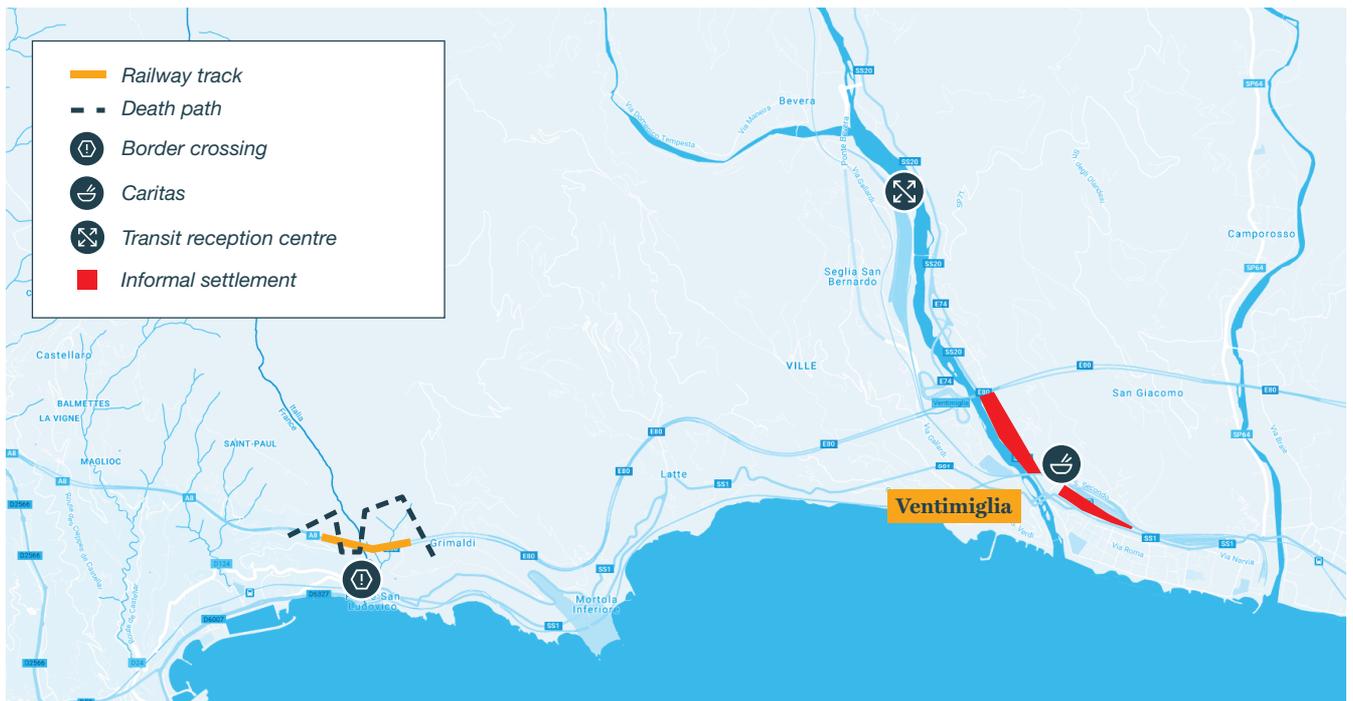
<sup>27</sup> <http://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Documents/Report-UASC-mese-agosto2017-31082017.pdf>

<sup>28</sup> Art. 23 paragraph 3, Reg. 1051/2013 “The total period during which border control is reintroduced at internal borders, including any prolongation provided for under paragraph 3 of this Article, shall not exceed six months. Where there are exceptional circumstances as referred to in Article 26, that total period may be extended to a maximum length of two years, in accordance with paragraph 1 of that Article”.

Art. 26, 1051/2013 “In exceptional circumstances where the overall functioning of the area without internal border control is put at risk as a result of persistent serious deficiencies relating to external border control as referred to in Article 19a, and insofar as those circumstances constitute a serious threat to public policy or internal security within the area without internal border control or within parts thereof, border control at internal borders may be reintroduced in accordance with paragraph 2 of this Article for a period of up to six months. That period may be prolonged, no more than three times, for a further period of up to six months if the exceptional circumstances persist”.

<sup>29</sup> <https://openmigration.org/analisi/i-morti-di-confine-a-ventimiglia/>

<sup>30</sup> See annex no. 1



French Police clearly attests to minors being refused entry, in breach of the guarantees in place set forth in provisions of international and Community law to protect minors<sup>31</sup>.

**When UASC arrive in French territory they are not taken into care, they are not allocated a legal representative, and no interpreter or mediator is present. They are not given the possibility of calling any relatives they may have in France, or of filing an International Protection application. The UASC who are stopped are merely issued the “Refus d’Entree”, and not every time, attesting to their minor status, their origin and their being refused entry on French soil.**

At the beginning of the year the “Refus d’Entree” consisted of a single page, and there was no information regarding the list of related rights and duties, or the procedure for appealing against the refusal of entry.

In this way, minors are returned from France to Italy without being controlled in turn by the Italian Border Police, who in theory would not be able to accept the “readmission” of UASC intercepted by the French Police onto Italian soil, and thus would be forced to be taken into care by France. Adults coming from Italy intercepted on French soil are taken by the French authorities to places presided over by the French Border Police and, by virtue of the Chambéry agreements signed by Italy and France, are readmitted to Italy. Readmissions governed by bilateral agreements are not applicable to asylum seekers, yet they are mostly readmitted, partly due to the lack of the possibility of

formalising the international protection application, as per the procedures set in place by the French authorities.

The “modus operandi” changes after seven p.m., when by virtue of agreements reached by the French and Italian police, readmissions to Italy are suspended until the following morning. Thus, if undocumented migrants are stopped on French soil, they are taken to the PAF of Menton, where they are “placed” in a container adjacent to the police office for the night, before being readmitted to Italy on the following day.

Up to June 2017 Ventimiglia did not have any reception centre for UASC in transit. Only the Church of Sant’Antonio in Roverino has hosted (since May 2016) families, single women and UASC below the age of 15. According to figures from Caritas di Intemelia in Ventimiglia, in 2016 around 15,640 people used their services, which included the distribution of clothes, hygiene kits and breakfasts. Of these, 3,644 were in the 15-18 age group. From January 2017 to August 2017 the Church of Sant’Antonio hosted 3,043 people, of whom 1,422 UASC. It is difficult to estimate how many minors have been in transit in Ventimiglia that have not found any hospitality, permanent or temporary.

**The lack of a reception facility in Ventimiglia in no way discouraged the arrival of new migrants.** Already at the beginning of the winter in 2017, when it was impossible for new arrivals to enter the Roya Camp, an “atypical” reception centre opened in 2016 and run by the Italian Red Cross

<sup>31</sup> For the examination of relative provisions refer to the Legal Framework section



(CRI), a large number of people, including many UASC, had found some form of shelter on the banks of the river Roya, beneath the motorway bridge. Up to 300/350 people found shelter there, of whom 30-35% were UASC.

This situation continued up to the month of August. Based on records kept by the Caritas centre, which works to give out clothes and breakfasts from Monday to Friday, the figures were as follows:

- in June the number of registered migrants in transit totalled 2,657, of these 45% were in the 11-18 age group
- in July the number of registered migrants was 4,398, 37% of whom between the ages of 15 and 18
- in August the number of registered migrants was 2,900, 41.6% of whom between the ages of 15 and 18

Migrants came chiefly from Sudan, Eritrea and Chad<sup>32</sup>.

The migrant population present in Ventimiglia is comprised mainly of people that landed in southern Italy, who are still to formalise their international protection application. Then there is a percentage of people sent back to Italy from other European nations, by virtue of the rules on jurisdiction regarding the examination of international

protection applications established by the Dublin III Regulation. There has also been a sizeable flow of people, especially UASC, who have experienced the organisational and qualitative dysfunctions of Italy's reception system, and travel as far as Ventimiglia in order to try and enter France. Unaccompanied minors' hope is to stop being "street children", a 16-year-old youngster from Ivory Coast said, having arrived in Catania, in Sicily, and then moved to a centre for UASC, where he spent nine months. After having spent all that time, "with nobody taking care of us, nobody taking any interest in us, I decided to go away and make for France. Nobody cares if we sleep on the streets, either here or in other parts of Italy. I will spend the night in the station, because I want to try and cross the border, early tomorrow morning".

On average, most migrants do not spend more than three months in the Ventimiglia area. The situation is thus extremely fluid, with a high turnover of persons present and seeking to reach France.

There have always been a lot of UASC in transit arriving in Ventimiglia, having the following main traits:

- Chiefly young males, mainly from the sub-Saharan area, and French-speaking Africa. The most represented

<sup>32</sup> Data source: Caritas Internelia

- nationality is undoubtedly Sudan, but recently there has been a rise in UASC from Afghanistan
- Very few UASC remain in the area for more than two months
- Most UASC are in the 15–17 age group
- In the summer of 2017 the number of Eritrean girls fell after a larger presence in the months of May, June, July and August 2016 and in the early months of 2017. From January 2017 to April 2017 there were 350 migrant women present in the Ventimiglia area. Of these, 22 were pregnant
- Most UASC, if not all, present in the Ventimiglia area expressed the intention of continuing their journey to other countries in the EU.

The main reasons inducing UASC to continue their journey are:

- the desire to reunite with a family member legally residing in another EU state. In most cases these family members are aunts, uncles and cousins
- a knowledge of the language spoken in the target country
- the belief they will benefit from living conditions that are higher than those in Italy, access to school and work being equal

Apart from personal aspirations, it should be borne in mind that almost all minors, even though they are unaccompanied, are pressurised by their relatives, which has a crucial bearing on their migratory path.

The closure of the border, to all intents and purposes, has had a considerable impact on the town, particularly since 2016 when, with an extraordinary presence of around 1,000 people in a territory having about twenty-five thousand inhabitants, no reception facility was present.

In May 2016, given the lack of response from the competent institutions, the Church of Sant'Antonio opened up the rooms beneath the church to receive migrants. In July 2016 the number of people using the centre reached a peak, calculated according to the number of meals handed out: 1,100 persons. In the same month an agreement was reached between the Prefecture of Imperia and the Italian Red Cross for the opening of a transit centre for adult men at Ventimiglia railway station. At the time no other solution for the reception of single women, family groups and UASC had been put forward. The reception of the most vulnerable categories was thus delegated to the volunteers of the Caritas of Ventimiglia at the church of Sant'Antonio.

Before the CRI Camp was opened up to UASC, most minors in transit at Ventimiglia found "accommodation" only under the motorway bridge, alongside adults not interested in going to the CRI Camp. The situation was and is unacceptable, also in view of the hygienic and sanitary

2.657 

*migrants in transit in June*

45% 11-18  
years old

4.398 

*migrants in transit in July*

37% 15-18  
years old

2.290 

*migrants in transit in August*

41,6% 15-18  
years old

conditions. There are no portable toilets, notwithstanding the willingness of Medici Senza Frontiere to install them, there are no water taps or fountains, despite constant requests and the opening of a water point by Ingegneri Senza Frontiere, then closed by the Municipal Police. For minors below the age of 15 it was possible to find hospitality at the Church of Sant'Antonio, until its closure on 15 August 2017, a result of the decision of local institutions, giving in to the strong pressure exerted by the local neighbourhood Committee.

From late June 2017, in the absence of a facility expressly reserved for UASC, Campo Roya, a government camp run by CRI, by virtue of an agreement with the Prefecture of Imperia signed in 2016 for the hosting of adult men, opened its doors to UASC too. This reception service was due to have been a temporary measure, since Italian law expressly forbids the hosting of UASC in adult reception centres. Having been identified, UASC are reported to the social services of the Municipality of Ventimiglia, who take them into care, and to other competent authorities. Only

Mobile medical activity performed on the INTERSOS Medical Mobile Unit with a physician and mediator on board included medical check-ups in the informal gathering area on the river Roya, with 1,480 check-ups from 23 May to 4 October 2017. This activity, closely connected to the Child Protection Unit, helped to monitor the conditions of many vulnerable persons in transit. A total of 274 check-ups were performed on UASC (18.51% of the total), who were then referred to the Child Protection Unit.

In one quarter of cases minors came to see the physician for injuries caused during the attempted crossing of the border, or more often while staying on the Roya riverbed. Traumas reported include violence on the part of police forces, both direct (truncheon blows, kicks, punches), and indirect (falls while fleeing), reported by 47 patients (3.17% of the total), of whom 16 UASC. Patients said they had suffered the violence of French authorities, and in two cases Italian authorities in the town of Ventimiglia. On the French border there were many lacerated-contused wounds, and a 21-year-old Sudanese man required the application of 12 metal clips on his scalp. There were four cases of traumatic dental avulsions. The most common pathologies reported related to traumas (19.66%), respiratory difficulties (17.16%), disorders of the digestive apparatus (13.24%), infectious diseases – mostly parasites and mycoses (12.43%), skin and subcutaneous tissue pathologies (11.41%).

Disorders of the digestive apparatus relate to the total lack of sanitary services, and the tendency, at least until the summer, to drink non-potable river water, even though pollutants were within Legambiente data limits as at June 2017 ([https://www.legambiente.it/sites/default/files/docs/comunicati/2006\\_monitoraggioliguria\\_1.pdf](https://www.legambiente.it/sites/default/files/docs/comunicati/2006_monitoraggioliguria_1.pdf)). The river had been polluted up to the previous sampling ([https://www.legambiente.it/sites/default/files/docs/comunicati/goletta\\_2106\\_risultatimonitoraggioliguria.pdf](https://www.legambiente.it/sites/default/files/docs/comunicati/goletta_2106_risultatimonitoraggioliguria.pdf)), and appears to be the reason for the reported cases of gastroenteritis.

In the Ventimiglia area the trafficking phenomenon is well established, and is well known to the competent authorities. Ventimiglia was and remains not only a stopping-off point on a longer journey, usually one of exploitation, but also a town where women that may not have been exploited previously are recruited. While the Church of Sant'Antonio may not have been ideal for receiving and assisting particularly vulnerable persons, who require special treatment, it did give people a place to talk to women who may be potential victims of trafficking, and who may finally be beyond the control of their escort. With the closure of the Church, not only is it more difficult to talk to women, it is more difficult to take action to liberate them from the cycle of exploitation. At the CRI Camp women are in direct contact and completely controlled by the "trolleys" who are present<sup>1</sup>. Guests leave the CRI Camp very quickly, Nigerian women will not usually spend more than one week in the CRI Camp. Many of them are taken beneath the bridge, or to concealed sheds, situated in a more underground area than that where most migrants are staying. At the beginning of 2017 the National Anti-Trafficking Agency received reports of 10 cases of Nigerian women who said they were the victims of trafficking, and that expressed their desire to be helped and rescued from the network of exploitation.

<sup>1</sup> Art. 19 of legislative decree 142 of 18 August 2015!

those who express the desire to remain and, as standard practice, minors born after 2003 are transferred, further to an authorisation of the social worker, to existing children's communities. Within the Roya Camp there is no specialist legal consultant, nor a legal contact. Formally the camp director has responsibility for UASC, being the representative of the managing organisation charged with hosting the minors.

There are many problems affecting the CRI transit centre: the area reserved for single women and families does not

have a separating barrier such as to prevent the access of unauthorised persons. This favours situations of promiscuity and potential danger. The bathroom and shower area reserved for women and families, albeit separated by a wire mesh fence, is next to the men's toilets, and does not offer the necessary privacy. In the area set aside for families, the lack of playing areas means that children leave this reserved area and move freely inside the camp, mixing with adults. There is a specific area in the camp for UASC, who according to legislation should be hosted in ad hoc first-stage reception



facilities<sup>33</sup>. There are no specialist medical services such as obstetrics/gynaecology/paediatrics, and the guests are not aware of the presence of a physician in the camp due to a lack of communication and publication of public visiting hours. There is an insufficient number of specialist operators and mediators. The number of toilet facilities, in relation to the facility's capacity (up to 500 guests) is below that fixed by international standards. There is only one legal consultant for adults. This professional figure should be aided, in view of the presence in Campo Roya of single women and families that have different needs. There is no specialist legal operator for UASC.

All minors intercepted by the Italian Police are immediately transferred to Campo Roya, run by the Italian Red Cross. In the camp all guests are registered through SPAID checking of fingerprints. For minors a report on their being assigned to the Municipality of Ventimiglia is drafted, and reports are submitted to the competent authorities. UASC present in the Camp expressing the desire to start one of the procedures governed by law (permit for minors, family reunification, relocation procedure, international protection application) are reported to the social worker of the municipality of Ventimiglia, who sees they are transferred to communities for minors present in the area or with which the Municipality of Ventimiglia has entered into specific agreements.

In Ventimiglia there is a community for UASC, run by the cooperative ANCORA, called Villa Catina, which is able

to host 10-12 male UASC. In addition to this community, UASC may be hosted by the CAS for adults, run by the CRI, which by virtue of an agreement signed with the Municipality of Ventimiglia may host up to 10 persons for up to seven days. At the end of this period youngsters must be transferred. Apart from the Caritas service of distributing clothing and breakfast, there is a single space dedicated to all persons in the territory, inside which it is possible to use computers, recharge mobile phones and talk to legal consultants who are present once a week. This space was opened in the summer by the associations Iris, Popoli in Arte and Melting Pot.

**By virtue of the so-called “territorial decompression” policy pursued by the Interior Ministry, forced transfers are ordered on a regular basis from the town of Ventimiglia to the hotspot of Taranto. The reason for these transfers is to “lighten” the town of the large presence of migrants in its territory.**

Coaches owned by “Riviera Trasporti” are taken to the offices of the Ponte San Luigi Border Police for the transfer of migrants returned from France. At the same time, controls are performed in the places where migrants usually stay in the territory. The last control was carried out at the railway station at 5 o'clock in the morning, when police officers enter the station, where a lot of people have slept, close the doors and take these persons directly to the coaches.

We have listened to UASC that have been transferred to Taranto, probably UASC who at the time of landing declared

<sup>33</sup> Art. 19 of legislative decree 142 of 18 August 2015



*M. from Sudan, stopped by Italian Police while travelling to the CRI camp and transferred to Taranto, said ironically: “perhaps Ventimiglia is not in Italy, like the towns of the landings”, otherwise it is hard to explain why he was transferred to Taranto. As if the submission of a protection application in Ventimiglia was not sufficient to protect him against future unforeseeable transfers (already experienced by M.). Like imagining an extensive internal application, on a regional or municipal basis, of the rules for determining jurisdiction for the examination of the International Protection application among States, fixed by the Dublin III Regulation.*

they were of age and not subjected to fingerprint checking at the border. These transfers also include people who had expressed the desire to file an International Protection application, verifiable through the formal request sent by the CRI to the Police Station of Ventimiglia, but still awaiting an appointment. Some migrants have been transferred to Taranto ten times, and every time they have returned to Ventimiglia. **These forced transfers create a very high level of frustration for migrants, who do not understand the reasons. An Afghan man aged 35 tried to commit suicide at Ponte San Luigi, fed up with yet another forced transfer to Taranto<sup>34</sup>.**

### **Bardonecchia:**

the flow of migrants heading to France, or seeking to re-enter Italy from France, is modest, compared with the more popular routes of Brenner, Como and Ventimiglia. Colle della Scala is one of the most used footpaths, taken by around twenty people a night, which, like most mountain paths, presents a high danger of accidents during the difficult trek<sup>35</sup>.

At the Frejus pass 68 minors were intercepted in 2016, compared with 37 so far in 2017. The French Police, having intercepted minors on French soil, delivers them to the Italian Police, which identifies them<sup>36</sup>, and contacts Con.I.S.A - Consorzio Intercomunale Socio-Assistenziale ‘Valle di Susa’ – for their placement in designated reception facilities. All minors intercepted directly by the Italian authorities or handed over to them by the French, are subjected to age controls at the CTO of Turin by means of a wrist X-ray and other control methods, which are quite invasive, such as the examination of genital organs. We are thus a long way from the correct application of new provisions set forth in the Zampa law.

The nations of people involved in this flow are chiefly Guinea, Ivory Coast and Nigeria. As regards minors hosted in Val Susa in 2016 there was a dropout rate of around 75% from the facilities in which they had been placed

<sup>34</sup> <http://www.riscattonazionale.it/2017/03/22/clandestino-viene-respinto-della-francia-ventimiglia-tenta-suicidio-gettandosi-un-dirupo/>

<sup>35</sup> <http://www.lagenda.news/bardonecchia-fuga-migranti-colle-scala-francia-briancon/>

<sup>36</sup> See annexes section: no. 2



# The North

## Como and Chiasso:

Lombardy is the region that hosts the most foreigners, and the number of family reunifications is on the rise<sup>37</sup>. Six non-EU citizens out of ten have a long-term residence permit. Irregular migrants made up 6-8% of the total<sup>38</sup>. There are nearly 50,000 foreigners in the province of Como.

The migrant emergency of last summer in Como began around the 10<sup>th</sup> of July 2016, when about a hundred migrants, including minors, had camped out and slept in the gardens of San Giovanni station. Until early July, the Swiss border police allowed a certain percentage of migrants to cross over, but from mid-July the borders were closed completely, border checks being carried out with the help of drones and the army. Migrants in transit were temporarily blocked in Como, a city that was little prepared to deal with such a complex phenomenon, even though it has a past history of migration. In a short time, however, voluntary services were organised: catering, dormitories, showers, distribution of clothes and essentials.

On 22 July, the Municipality, with the aid of CRI, installed a marquee to host 40-50 vulnerable migrants, especially women and families; as from 23 July it was possible to use toilets and showers, prior to that date both personal and clothes washing was done at the fountain present in the gardens.

In August 2016 the population in transit camped out at San Giovanni station had reached 600, a fact that highlighted the importance of the phenomenon and provoked a response from the society of Como worthy of more structured metropolises. The youngsters of a parish distributed breakfasts in the morning, the Swiss association Firdaus, of the Ticino member of parliament Lisa Bosia Mirra, provided lunches, later replaced by Caritas, while the Croce Rossa Italiana and Caritas covered dinner duties<sup>39</sup>.

At the end of July the Sant'Eusebio canteen was opened, an experience that ended on Sunday 18 September, and that involved 500 volunteers, serving thousands of meals for dinner.

Como senza frontiere, bringing together a number of organisations and associations, immediately handled assistance and the organisation of activities for migrants.

In a short time the gardens of the station became filled with tents and blankets. Migrants attempted to cross the border in any way possible: by train, on foot in the woods, by bus or with "passeurs".

**From mid-July to the end of August, 7,000 migrants were refused entry from Chiasso, with a figure of 15,000 starting from January 2016; in the same period 454 unaccompanied foreign minors, readmitted to Italy from Switzerland, were assigned to Caritas and placed in the facility in the parish of Rebbio.**

At the end of August 2016 the Associazione Studi Giuridici sull'Immigrazione (Association of Legal Studies on Immigration) presented a report listing the numerous breaches committed regarding refusals of entry at the Chiasso border.

**As regards unaccompanied minors, the authorities are required to act on the basis of Italo-Swiss agreements, which do not make a distinction between minors and adults, and require the migrant to be returned directly to Italian authorities if he does not file an asylum application. Many cases have been recorded by ASGI and by Swiss associations of rejected minors even though they expressed the clear intention of seeking international protection, both verbally and in writing<sup>40</sup>.**

The situation in 2017 has remained virtually unchanged, however the number of people attempting to cross the border in the Ticino Canton has fallen drastically compared with the summer of 2016, when there was the highest influx of migrants.

The ways migrants attempt to cross the border are the same as those tried in the localities already examined, with a clear prevalence for the train compared with other means. Here too there has been an increase in controls on the part of Swiss and Italian police forces, which has led migrants to attempt ever more risky ways of attempting to dodge controls<sup>41</sup>.

On 19 September 2016 the new temporary reception centre in Via Regina Teodolinda was officially opened,

In 2017 about 8,000 people have attempted to enter Switzerland from Italy, including about 1,100 UASC refused entry in Italy

<sup>37</sup> [http://www.interno.gov.it/sites/default/files/cruscotto\\_statistico\\_giornaliero\\_20\\_settembre\\_2017\\_.pdf](http://www.interno.gov.it/sites/default/files/cruscotto_statistico_giornaliero_20_settembre_2017_.pdf)

<sup>38</sup> <http://www.altarezia.news.it/2017/03/01/immigrazione-ecco-i-neri-in-lombardia-1-3-milioni-e-96-000-sono-irregolari/>

<sup>39</sup> <http://www.rsi.ch/news/ticino-e-grigioni-e-insubria/Condannata-Lisa-Bosia-Mirra-9603148.html>

<sup>40</sup> See annex section: no. 3

<sup>41</sup> <https://openmigration.org/analisi/morire-di-confine-a-como/>



with funding from the Ministry of Interior, with a view to temporarily hosting migrants and also giving them reception guidance.

From that day onwards the green space around the railway station has been constantly manned by police officers, and it is no longer a camp, while the government camp, run by the Red Cross, is working at full capacity, although in a different guise to that announced when it was opened<sup>42</sup>.

**The centre does not have a definite legal status, it was opened as a “transit camp” for persons who intended to cross the border with Switzerland. Gradually it has become a veritable reception centre, and now hosts most of the people who seek to settle in Italy. Although national legislation does not permit the creation of centres outside of those provided for by legislative decree 142/2015, namely first-stage reception centres (art. 9), temporary reception centres (art. 11) and SPRARs (art. 14), the legal status of this centre has not been made public after one year of operations. It is true however that the persons hosted in the centre remain there for a number of months, awaiting an interview with the Local International Protection Recognition Panel, or awaiting transfer to other reception facilities,**

**without receiving any form of living allowance.**

Inside the camp the Red Cross, managing the centre at the request of the Prefecture, deals with all logistics-related aspects, while Caritas is responsible for the linguistic and legal mediation service, supplied without operators trained for the relative subject areas.

Entrance to the camp is via a gate that is kept closed at all times. Guests must always knock in order to enter, and unauthorised persons are only allowed to enter by means of an accreditation request made to the Prefecture. The centre has entry and exit times for camp guests, who are supplied with an ID badge.

The camp consists of 50 containers about 15 sq.ft in size, each containing 8 beds. At the present time about 200 people are housed in the camp, including 40 UASC. These figures are well down on numbers recorded even one or two months ago, when there were up to 350 people, including over a hundred minors.

There are no medical services in the camp. Container no. 28 is designated as a surgery, but is totally devoid of equipment, and during the day is manned by a Red Cross nurse, who is not allowed to administer medicines or compile prescriptions. Volunteer doctors are present, despite the

<sup>42</sup> See annex section: no. 4



absence of an agreement with the camp manager, every evening from 20.30 to 22.30.

The biggest criticalities regarding UASC include the promiscuous state of those housed in the Red Cross camp. International protection applicants will have to stay in the camp for up to eight months, with no services provided. Intersos has however managed to loosen the mechanism for gaining access to the procedure, and after 4 months of pressure and advocacy it has managed to get the guardian appointed (Head of the provincial CRI, Mr Belotti). Also working in concert with the tutelary judge and the Questura (central police station), Intersos's Child Protection Unit has managed to ensure that all UASC not applying for international protection are taken into care by the Social Services of the Municipality of Como and placed in residential care communities for minors until their coming of age. It should be noted that the Municipality of Como complains of the excessive weight of the migratory phenomenon in its territory, seeing that only 30 municipalities of the province have provided reception facilities.

Schematically we report the incorrect practices observed in Como as regards the treatment of UASC:

- Placement of minors in a transit centre where there is a very high degree of promiscuity, among guests and between CRI personnel and guests, and no services

- Tutelary Judge's naming of facility contacts as guardians of the minors hosted, a clear conflict of interests due to the dual role fulfilled
- Checking of ages at the orders of the central police station by means of wrist X-rays without informing the guardian or waiting for the request of the Public Prosecutor of the Juvenile Court, as required by the Zampa law
- Regular exceeding of the 30-day deadline in place for staying in first-stage reception centres
- Failure of the Municipality's social services to take into care all UASC hosted in the camp and in the two first-stage centres

It is estimated that around 12,000 new immigrant citizens are residing legally in Como, making up about 14% of the population.

Around a thousand people, hosted in Temporary Reception Centres, are awaiting the completion of procedures for the granting of international protection.

In addition to minors hosted at the Red Cross camp, there are a further 35 UASC hosted in the two prefecture centres for minors, created in late 2016 further to a tender notice. The notice set forth a 60 day agreement, which could be extended for a further 60 days. Both of these limits have been ignored, just as the length of time minors should spend in these facilities, which was reduced to 30 days with the Zampa law. It is noted that some minors have been hosted since January, and some of the guests are not even asylum seekers.

Migrants “in transit” also include, apart from the guests in the CRI camp, around 60 persons hosted at the HUB in Via Sirtori, run by Caritas, pending their transfer to a CAS. There are also around 120 homeless migrants that have dropped out of the formal reception system, sleeping on the streets or in the garage in Val Mulini. Many of these have been granted international protection.

About seventy migrants spend the night at the Val Mulini garage, of whom around fifty on a semi-permanent basis, some since November, others since May or June, after having travelled elsewhere (in Germany, southern Italy or other cities, in order to work) before returning to Como.

Most of those in transit who manage to cross the border do so with the aid of “passeurs”.

Of these seventy people, many have been returned to Italy from other EU States in accordance with the Dublin III Regulation. Many others have already been granted international protection, and have been taken out of reception centres, including those of Como and Varese. There is a rise in migrants that have come of age coming from residential care communities for children, often undocumented or without having filed an international protection application. However, 90% of these persons have filed applications of one sort or another, and are residing legally.

Many of them are already vulnerable or are becoming vulnerable, with problems such as alcoholism, especially among Nigerians and Somalians, and the emergence of mental problems relating to the state of marginalisation they find themselves in.

In Como there are thus a large number of immigrants, most of whom residing legally, which is very important from a civil, social and cultural point of view. This fact also raises a wide range of problems, and requires considerable resources.

The reception system in Como is essentially based on the presence of special centres.

About 60 CASs are run by the Cooperative “Intesa Sociale”, offering a total of 450 places, for adults, but also some minors. 13 CASs are run by the Cooperative “Il biancospino”, hosting 80 persons, including 2 minors.

A further 400 migrants are hosted in the facilities run by the limited liability companies owned by Mr Mazzoleni, a former priest who now manages firms, cooperatives and enterprises in a number of spheres, from kindergartens to rest homes and CASs.

In 2009 the Municipality of Como created a first-stage reception centre for unaccompanied foreign minors, as part of ANCI’s Protection programme for UASC. This centre was closed in 2015 after a number of incidents.

The municipal administration has never wanted to be involved with the SPRAR system.

The previous administration had called a public meeting, which met on a fortnightly basis to discuss the hosting of migrants stuck in the town, particularly those sleeping at San Giovanni station.

Municipal committees examining the issue of foreigners and minors have presented joint projects for the tender notice on UASC promoted by the Fondazione Comasca, through which activities are being performed in favour of minors in the town.

Projects cover the areas of recreation and play (*Lotta contro l'emarginazione* cooperative), psychological help (*La Rosa dei Venti* Foundation and Lachesi association), cultural mediation (Questa Generazione cooperative), social housing (I frutti delle vigne association and Somaschi Foundation) and apprenticeships (Cometa Foundation).

In Como there is a legal advice bureau manned by lawyers who, on a voluntary basis, once a week, provide guidance on and take up a wide range of legal cases: asylum seekers who failed to appear before the Local International Protection Recognition Panel, persons needing to lodge appeals, persons once again entitled to receive reception measures.

Looking at initiatives undertaken by civil society, the association “Como senza frontiere” has played an important role, seeking to keep in the news the issues of reception and immigration. The association’s members include many local stakeholders, such as ARCI, Coordinamento Comasco per la Pace and Cgil Como.

At the beginning of the year three non-government organisations were present in Como: Intersos and Medici Senza Frontiere, with permanent teams, and Save the Children, with a mobile team. Also present were UN Agencies IOM and UNHCR. Only Intersos now guarantees a constant presence.

Other organisations, such as Safe Passage and Fondazione Posti Liberi di Lugano, are operational, albeit remotely, working in the sphere of family reunification.



# The North-East



## Brenner Pass and Bolzano:

**A**t Brenner Pass and Bolzano the condition of foreign minors, in transit and not, is extremely critical. The closure of the Austrian border, which began in November 2015 and became definitive in February 2016, with the blocking of transits via the Balkan Route and the consequent blocking of migrants at the Brenner Pass, has had a significant knock-on effect on the town of Bolzano. Following the first refusals of entry and/or readmissions of migrants from Austria, sent back to Italy, an alarming situation was being created in Bolzano in terms of the numbers of people living on the streets: about 2,000 people were outside the formal reception circuit.

**As more and more measures were taken to control borders, practices and procedures were developed that seriously harmed migrants' rights, including minors. In response to this situation, migrants chose methods that were more and more risky for their safety in order to dodge controls and cross the border<sup>43</sup>.**

The flow of people attempting to cross the border at the Brenner Pass includes:

- people in transit towards the North and blocked at the border by Italian police forces before being able to leave Italy: in many cases these are people who have not been granted protection by Local Commissions, some have pending appeals in first or second instance, having dropped out of the formal reception system but still classed as asylum seekers, unlike those who have not appealed or been turned down definitively by the courts, who are now "irregular" migrants;
- people holding a valid residence permit but not holding a passport or valid travel document in order to be able to leave the country;
- people that have landed in Europe and not formalised a protection application in any Italian city and want to travel on to northern Europe;
- people coming from the Balkan Route who have not filed any asylum application in any city and want to travel on to northern Europe (mainly from Syria, Afghanistan, Iraq).

<sup>43</sup> [openmigration.org/analisi/morire-di-confine-al-brennero/](http://openmigration.org/analisi/morire-di-confine-al-brennero/)

## Checks on trains carried out by the mixed patrols of Italian, Austrian and German police officers, often starting from Bologna station, are very discriminatory

Within these flows UASC consist mainly of single males, with only a small percentage of girls, who have just arrived in Italy via boat. They come mostly from Sub-Saharan Africa, and in particular from Somalia. Other nationalities encountered are, to a lesser extent, from Pakistan, Afghanistan, Gambia, Cameroon, Iraq, Nigeria, Ghana, Eritrea and Ethiopia.

The main exit route remains that via rail on the Eurocity or regional networks, through the Brenner Pass. In spring months people began to use coach companies such as Flixbus, but drivers began to ask passengers for documents when getting onto the coach in Bolzano.

“Lifts” offered by “smugglers” to Austria or Germany cost from 200 to 800 euro. The price appears to depend on ethnic factors: African people, deemed to be less prosperous, will be asked for a lower sum than those from Iraq and Syria, held to be more wealthy. Contacts and agreements are usually made in the park opposite Bolzano train station.

**Checks on trains carried out by the mixed patrols of Italian, Austrian and German police officers, often starting from Bologna station, are very discriminatory, based on the somatic traits of passengers who, to the extent that they appear to be foreigners, are “fast-tracked” for the checking of documents, which in some cases is anticipated by forced removal from the train<sup>44</sup>.**

Those who manage to make it to the Brenner Pass, having dodged the checks on the trains headed to Austria, or arriving via other means, have to get around a rigid exit filter prepared by the Italian police, at the station, on the train, whose wagons are re-inspected, and on the road.

During the stop at Brenner Pass, Italian police forces check every carriage of the train, while Austrian police usually only get onto the final carriage. Persons stopped with checks effected on trains leaving Italy, found to be in possession of a residence permit but not a valid travel

document for expatriation, are invited to catch a train going southwards, in the direction of Bolzano. Persons not carrying a residence permit are usually taken to Brenner Police Station for photo-identification and invited to go to the central police station of Bolzano to regularise their status. They are then taken back to the railway station. This practice is not always followed with minors, or persons who may be presumed to be under age, since sometimes they are not taken to the police station for identification, thus they are not officially recognised as minors.

There is then the next check to overcome, that of entry into the country, carried out by the Austrian police. **The police forces of both States do not appear to consider the guarantees imposed by Community and national legislation to protect minors.**

The Austrian Police, as often reported by migrants, impose on all intercepted migrants a fine for illegal entry. The amount varies from 100 euro to 700 euro (the maximum amount of the fine is 1,000 euro).

It appears that the criterion adopted is to adapt the amount to the money the person is carrying. If the migrant does not have money, the police seize valuable items owned by the migrant, such as mobile phones, and keep them until the fine is paid<sup>45</sup>.

All migrants’ fingerprints are taken for identification purposes, followed by forced transfer back to Italy. Readmissions, both active and passive, are effected on the basis of the bilateral agreement between Italy and Austria, signed in Vienna on 7 November 1997, later supplemented by two agreements between the Austrian and Italian governments in 1999 and 2012. Under the agreement, readmissions may be done in an ordinary or simplified form (in 24 hours). The readmission obligation does not apply to third-country citizens that have filed an international protection application in the State requesting the readmission<sup>46</sup>. The entire procedure is totally arbitrary.

<sup>44</sup> <http://www.meltingpot.org/L-ossessione-dell-Austria-per-il-Mediterraneo.html#.WahyvpOrS1v>

<sup>45</sup> UNHCR, *CONNECTING REFUGEES How Internet and Mobile Connectivity can Improve Refugee Well-Being and Transform Humanitarian Action*

<sup>46</sup> ASGI and Antenne Migranti, *LUNGO LA ROTTA DEL BRENNERO, report monitoring the migrant situation in Bolzano and Brenner, 2017*

Migrants indeed are denied access to the international protection application procedure, thus the provisions of art. 3 of the Dublin III Regulation are constantly breached, and no document is issued attesting to the refusal of entry, except for the above-mentioned fine<sup>47</sup>.

- Migrants are not given detailed explanations about the grounds for the readmission
- The individual position is not examined
- There is no linguistic mediation service available
- It is not possible for the migrant to file an international protection application, even if there has been a clear and unmistakable sign of the desire to do so
- Minors are treated like all other migrants, with the total non-application of the Convention on children's rights and of the Dublin III treaty, which reserves special treatment for minors<sup>48</sup>.

At the Brenner Pass the "Volontarius" association has a facility for hosting persons in transit at night, with room for

fifty migrants. Migrants in transit may not use the facility during the day, but only after the departure of the final train to Bolzano, with the exception of vulnerable persons, who may use the facility also during the day.

We were directly able to check these operating methods thanks to interviews conducted at Brenner and later in Bolzano. Minors are directly handed over to the Italian Police, or directed to Brenner train station in order to retrace their steps.

With regard to UASC in transit, operators of the "Emergency unit for migrants in transit" (dedicated in particular to vulnerable persons, including minors) of the non-profit organisation "Volontarius", which provides some services of a public nature or relevance, say that the peak was reached in the winter of 2016, with an average of 20/30 arrivals each day.

In 2016, according to figures released, including figures published in the press, around 350 minors had transited

During a visit to Brenner railway station, on 17/08/2017, we came across a group of four youngsters, three Somalians and one Gambian, three of whom minors, who had just been refused entry to Austria by the Austrian police. The four, all devoid of valid ID documents, who had been relieved of the little money they had with them and of their mobile phones, had a document attesting to the fine for unlawful entry on Austrian soil, giving their personal data<sup>1</sup>. On two of the documents issued by the Austrian Police to the fake minors there was a date of birth, on the basis of which they appeared to be of age. The youngsters told us that the date of birth declared by them, showing their status as minors, had been altered when these documents were being drafted. A third document did actually give a date of birth that attested to the status of minor.

After these came another seven people, escorted by the police, who had been turned back by the Austrian police, one of whom visibly a minor, and all in possession of a formal invitation to regularise their position at the Central Police Station of Bolzano.

All of them, including the four youngsters of the first group, were then loaded onto the train and accompanied to the next station, Fortezza, where they were forced to get off. Thanks to the intervention of an operator of Antenne Migranti, who bought tickets for all of them, they then took the train back to Bolzano.

Once they arrived, after passing through the humanitarian office run by the association "Volontarius", they were accompanied to the refectory that offers meals every night to those sleeping out in the streets and to the native population. Thanks to the work of volunteers of the association "SOS Bozen", the minors managed to find somewhere to sleep, at the Evangelical Church of Bolzano, while the four adults were forced to sleep on the street.

The following day they were accompanied by social service volunteers to the Central Police Station, as there was nowhere for them to stay, and had been identified as adults by the Italian police at Brenner station. This situation happened on several occasions when volunteers accompanied minors to social services, without being able to take the youngsters into care, due either to the absence of the head social worker or to the impossibility of doing so due to the lack of places, in which cases they were invited to take the minor to the Questura. In such cases no written statements were released regarding the impossibility of taking the minor into care.

<sup>1</sup> See section Annexes: no. 5

<sup>47</sup> Art. 3, Access to the procedure for examining an application for international protection: "Member States shall examine any application for international protection by a third-country national or a stateless person who applies on the territory of any one of them, including at the border or in the transit zones"

<sup>48</sup> Refer to the section "Legal Framework"

With reference to internal provisions, rules have not been followed that require law enforcement authorities to notify the tutelary judge about the presence of unaccompanied minors for the purposes of opening the protection procedure pursuant to article 343 and following articles of the Civil Code, duly informing the Public Prosecutor at the Juvenile Court, the Juvenile Court itself and the Ministry of Employment and Social Policies (art. 19, subsection 5 of legislative decree 142/2015), similarly the provisions on the subject of reception obligations set forth in legislative decree 142/2015 (art.19 subsection 1-3-bis) and in Law 471/2017 have not been complied with.

Finally, the provisions of art. 403 of the Civil Code relating to urgent actions to protect minors, and article 4 of Law 184/83, as amended by Law 149/2001, governing the legal, consensual and intra-family custody of minors.

through the Brenner Pass, many of whom stayed in Bolzano, albeit for short periods of time.

**Operational policy pursued by institutions has been marked by questionable practices, despite a bulky body of legislation offering guarantees to minors.**

**Often there is a willingness not to identify individuals who clearly appear, by virtue of their appearance, to be minors, so as to avoid the procedures set forth in reference legislation.**

**Throughout 2016 there has been a policy of “happy-go-lucky custodies”, as documented in the press, with decisions entailing the presence of “makeshift” guardians, in many cases not having any ties with the minors, usually in vulnerable conditions, in the absence of mediators and interpreters<sup>49</sup>.**

There have indeed been numerous cases of custody being granted going against the principles and provisions of national law (Law 84 of 1983, as amended by Law 149 of 2001), governing the issue, which impose a painstaking assessment of the situation, with a view to choosing the best solution for the protection of the minor, an examination of the qualities of the guardian and his/her fitness to take up such a delicate and responsible role, that of taking the minor, a particularly exposed and vulnerable person, into care.

This basic situation remained unchanged in 2017, with the exception of the number of arrivals, which were down on 2016 figures.

“Volontarius” operators report, according to their surveys (in 2015 Volontarius created the unit “Service for persons in transit”), an average of 10 UASC a month in transit from January to July 2017.

**We learned from the same operators of “Volontarius” that in July there were 20 and in August 24 unaccompanied foreign minors that were not placed, following identification and then reporting to the Social Integration Service (SIS), in the temporary reception**

**circuit for minors, and had in effect been sent back onto the streets.**

In the period from January to May, only 21 of the minors intercepted on the streets had been hosted in an emergency facility. The chronic absence of places in facilities and of ad hoc public services are the reasons why reported minors have not been taken into care.

We are not surprised by these figures: in a few days we personally witnessed 14 reports of minors to the SIS, without this making the slightest difference to the actual taking into care of these youngsters.

In some cases moreover, at the Questura minors were assigned to the person that had accompanied them to the office or to homeless asylum seekers, who happened to be physically close to the minor at the time of the police interception, with whom there were no ties, either of kinship or even acquaintance. This practice appears to derive from a communication issued by the Public Prosecutor’s Office of the Juvenile Court of Bolzano, dated 23 May 2016, regarding instructions to law enforcement agencies on the subject of unaccompanied foreign minors<sup>50</sup>.

Most of the persons present in the area are treated with total neglect and indifference. This contrasts with the existence of a second-stage reception system for minors having quality standards that are much higher than the national average. Access to such facilities is very limited however.

The situation is complicated by the arrival of families with children from southern/eastern Italy (from other reception centres, hotspots or directly from the Balkan Route) or from northern Europe (“Dublin” readmissions), which because of the so-called “Critelli Circular” of 27 September 2016 run the risk of not being even temporarily hosted in an hotel, and therefore remain on the streets<sup>51</sup>.

The excellent level of second-stage reception had been envisaged in the relative Provincial Plan, drafted in 2001,

<sup>49</sup> [www.ildolomiti.it/società/bolzano-la-politica-della-dissuasione-che-allontana-i-profughi-e-consegna-i-minori-stranieri-nelle-mani-di-chissà-chi](http://www.ildolomiti.it/società/bolzano-la-politica-della-dissuasione-che-allontana-i-profughi-e-consegna-i-minori-stranieri-nelle-mani-di-chissà-chi)

<sup>50</sup> See ASGI webwite: <https://www.asgi.it/banca-dati/>

<sup>51</sup> <https://www.salto.bz/it/article/08102017/morire-di-non-accoglienza>



for 66 foreign minors. This ceiling was later raised, however the actual number of available places has proved to be very insufficient compared with the number of potential users.

With regard to first-stage reception, there are 44 available places, with only two real reception centres created specifically for minors: “Casa Rossa”, situated in Via Roma, with a dozen or so places, and “Casa Conte Forni”, with another 12 places.

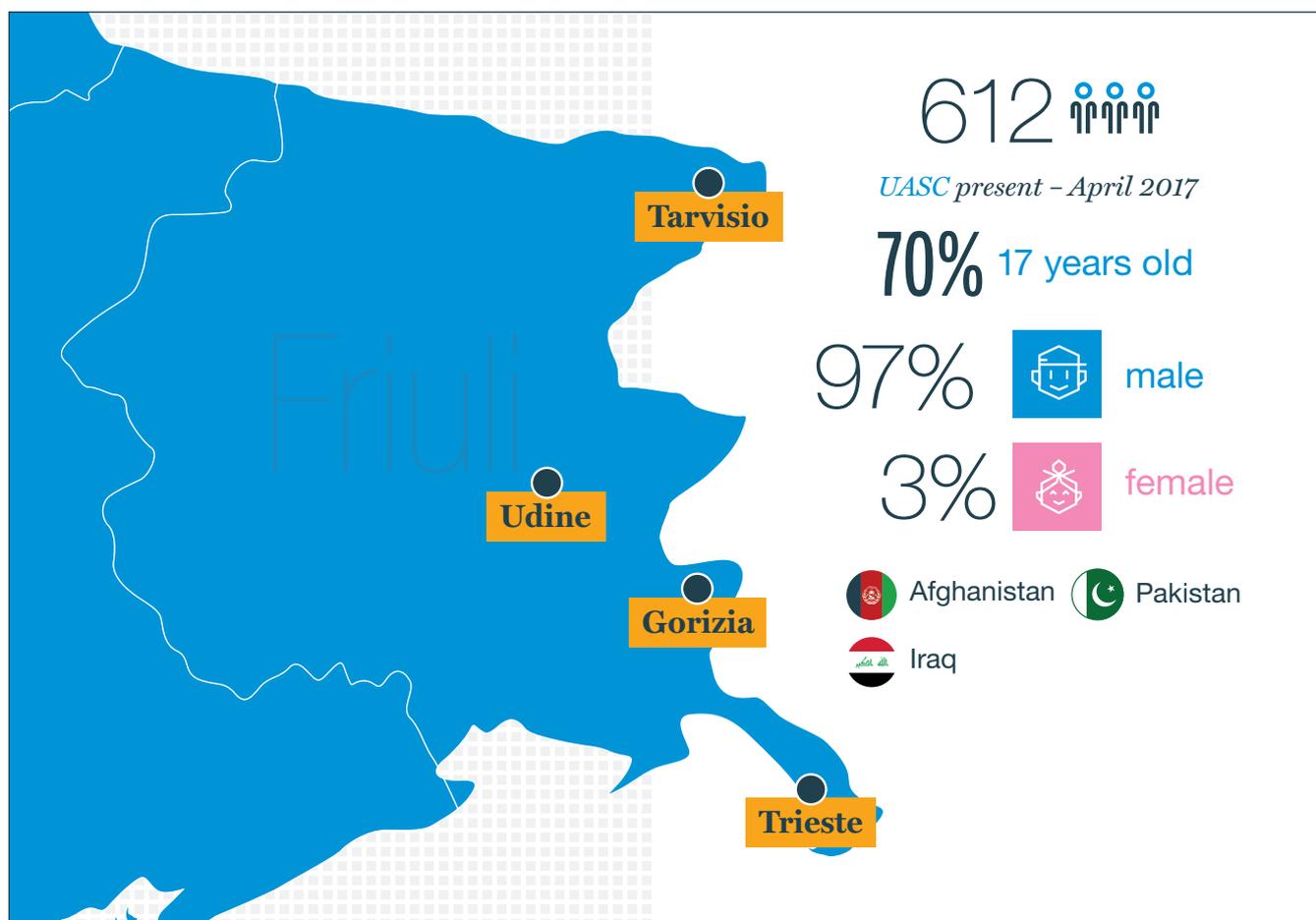
The remaining places are scattered over the Province or Region, and are part of the emergency channel created among second-stage reception facilities (usually no more than two places per facility) or in CASs for adults.

**This set-up is seriously inadequate for the number of minors that have arrived and continue to arrive in the town.**

Because of the large number of persons without shelter or

a place in a reception centre, the area adjacent to piazza Verdi and the bridges along the river Isarco have become temporary night shelters for many. In recent months there has been a continuous flow of arrivals, commensurate with the increase in landings. People who have not found a place in a centre, even with Emergenza Freddo, went from 10-12 in early January to 50-60 in late March, and around 200 in September. Thanks to the actions of some volunteers, temporary shelters were found in a number of premises owned by the Church, where until 28 March people were able to sleep on the floor.

Vulnerable persons (women, sick, diable, minors) may sometimes find temporary night-time shelter at the evangelical church situated in the Gries district of Bolzano. Here people sleep on mattresses on the floor of the church atrium, which is cleaned up every morning. Due to the number of vulnerable persons already present, often



the church is unable to take in new persons, including unaccompanied minors, who must therefore sleep outside on the street.

There is also a catering service in piazza Verdi. The service is run by the Oltre La Strada project of the “Volontarius” association, with breakfast, lunch, and dinner on three evenings of the week, in collaboration with the association “S. Vincenzo”, which is present four evenings a week.

## Friuli Venezia Giulia:

Monitoring of the territory examined localities situated close to the Slovenian and Austrian borders and the city of Udine, of particular relevance, as it is affected by arrival or transit flows.

**The peculiarity of this area is the number of different incoming flows, via sea through the port of Trieste,**

**with ships from Turkey and Greece, and via land, with the persistent, albeit smaller, movements of persons entering Italy via the Balkan Route<sup>52</sup>.**

In Friuli Venezia Giulia 612 UASC were present as of April 2017<sup>53</sup>.

Most were from Afghanistan, Pakistan and Iraq, in line with the main nationalities of persons in transit via the Balkan Route<sup>54</sup>.

97% of hosted minors are male, 70% are 17 years old.

As already mentioned, there are no exhaustive data on transits via air and via land.

Since Friuli Venezia Giulia has been mainly affected by incoming flows from the Balkan Route since 2015, there are no detailed data monitoring the presence or passage of persons in transit.

The presence in the Region of unaccompanied foreign

<sup>52</sup> Friuli Venezia Giulia Region, *Three-year plan for the integration of immigrants*, “At the end of 2015 prefectures in the Region had recorded the presence of over 3,000 asylum seekers. Most of them (92.7%) were foreigners that had arrived independently via land over the so-called “Balkan Route”, the most used corridor for reaching Europe through the border between Turkey and Bulgaria, or between Greece and Macedonia”.

<sup>53</sup> Ministry of Employment and Social Policies, *Report on UASC, June, REPORT MENSILE I MINORI STRANIERI NON ACCOMPAGNATI (UASC) IN ITALIA*

<sup>54</sup> Ministry of Employment and Social Policies, *Report on UASC, June, REPORT MENSILE I MINORI STRANIERI NON ACCOMPAGNATI (UASC) IN ITALIA: “Afghan and Pakisani UASC are concentrated in Friuli-Venezia Giulia (57% for the former, 40% for the latter).”*

minors includes, in addition to those placed in the reception circuit, an unknown number of minors in transit, most of whom are seeking to reach other EU States. These consist of:

- unaccompanied foreign minors coming in via the Balkan Route and unidentified
- minors landing in the port of Trieste
- minors that have dropped out of the reception centre system, mostly coming from other regions<sup>55</sup>
- minors arriving from sea landings, not immediately identified and placed in ad hoc facilities
- minors that have not declared their not being of age, so as to be able to transit more quickly to another EU State

**In Friuli Venezia Giulia minors intercepted by competent authorities have actually been taken into care, an action completed within the 24-hour limit set by existing legislation. Nevertheless, we should note the high dropout rate for minors from reception centres, ranging from 30 to 50%; for Afghan minors in particular the rate is around 75%.**

Most of the centres for minors located in Friuli Venezia Giulia are child assistance facilities, created in the 1960s and 70s, then reused for the hosting of refugees during the Balkan war.

An old regional law from 1986 remains the only legislative reference for the way these facilities are set up. The Region is due to promulgate, by the end of the year, a new set of rules for these centres, which should also set forth a procedure and criteria for the accreditation of such centres with the Region, as per national legislation (Zampa Law). **The planning of services within these centres thus varies considerably depending on the cooperative that runs them. This creates numerous discrepancies among existing services<sup>56</sup>.**

Friuli's reception system is still marked by the presence of emergency structures, CASs and large facilities, to the detriment of the SPRAR network, in which there are few available places<sup>57</sup>. This is also true for the hosting of minors, with all the resulting problems regarding the ability of facilities to guarantee a suitable setting for UASC, being particularly vulnerable persons.

## Tarvisio and Udine:

The Tarvisio pass is affected by both incoming and outgoing flows.

In practice, most persons attempting to cross the border, chiefly via train, are intercepted by checks carried out by the Italian and Austrian police forces. Partly with a view to intensifying controls on migration flows along the border, a bilateral intergovernmental agreement on Police Cooperation was signed between Italy and Austria<sup>58</sup>. This has led to the use of different ways of crossing the border: by coach, private means of transport, or on foot.

In 2016 the Municipality of Tarvisio took into care 630 UASC, who were placed in centres for minors located throughout Friuli Venezia Giulia.

**In 2017 this figure fell drastically due to the agreement between the European Union and Turkey and the consequent intensification of checks along the borders. There remains however a trickle of UASC in transit.**

From 1 April to 30 June 2017 36 unaccompanied foreign minors were detected by the Railway Police (PolFer) in Tarvisio. The Italian Border Police receive these UASC from PolFer, report the intercepted persons to the tutelary judge and to the Public Prosecutor of the Juvenile Court and attempt to place them in facilities having available places in the region, through the help of centre operators, duly informing the municipalities affected and the Juvenile Court.

Udine is a city of transit for those entering Italy and crossing the Austrian border, for those wanting to transit to Austria and for persons identified in Tarvisio and formally invited to visit the immigration office of the Questura of Udine to regularise their position in Italy.

According to Paola Tracogna, a volunteer for the non-profit organisation "Ospiti in arrivo"<sup>59</sup>, founded in 2014, Udine continues to be affected by the flow of migrants from the Balkan Route, of varying nationality, including some minors, who often conceal their status of non-adulthood.

A number of people, from 20 to 50, live permanently in informal places, such as the railway underpass, public gardens and under the canopy in front of the cemetery. For these persons it is not difficult to imagine contacts with possible illegal circuits and black economies created following situations of neglect or life on the street. It

<sup>55</sup> REACH, *Children on the move in Italy and Greece*: "However, this rapid assessment found that some children drop out of the Italian reception system because they do not know the correct procedure to claim asylum and legally stay in Italy. In lieu of official trusted information, children follow hearsay and anecdotal advice on social media, hoping to have better access to protection and services, such as education and health care, by heading to the North of Italy."

<sup>56</sup> Contracts for the management of CAS services are absolutely discretionary, and may change from one province to the next, the provision of services in centres is left exclusively to the organisation that drafts the contract.

<sup>57</sup> On 9 April 2014 the Ministry of Interior released a circular for the expansion of the "extraordinary reception plan", raising to 80,000 the number of places in CASs, compared with 19,000 in the SPRAR network and 7,000 in government centres.

<sup>58</sup> Law 209 of 3 November 2016, ratifying the bilateral police cooperation agreement between the Italian and Austrian governments designed to intensify controls regarding illegal immigration, organised crime and drugs trafficking

<sup>59</sup> In addition to the distribution of essentials and legal advice/information, Ospiti in arrivo performs a monitoring service at Udine train station.



should be stressed moreover that often, since they are not fully aware of the reception system and of the possibility of seeking asylum, with the rights that come with it, these groups of people are exposed to abuse and exploitation. In particular when they are forced to live a marginalised existence, without a roof over their heads, food and other essential services, and are forced to come up with money to continue travelling through Europe. During the course of a meeting with Daniela Mannu, head for Friuli Venezia Giulia of the “Alba” project for prostitution trafficking victims, Udine has also been indicated to us, as an important “sorting centre” for women destined for Austrian brothels.

### **Trieste:**

The city has a number of virtuous social organisations that have been working for over twenty years in the sphere of

reception services for foreign citizens. For a long time the Consorzio Italiano di Solidarietà has been a model to be emulated in the field of reception. It has developed an extensive reception system, through the use of apartments located around the city, thus avoiding problems relating to segregation and concentration typical of major isolated centres. However, the number of arrivals has continued to rise, primarily from the Balkan Route, and so the number of migrants finding themselves excluded from formal reception systems is between 50 and 100, who are camped out in the Silos area.

Thus, generally speaking, the same criticalities as those present throughout Friuli Venezia Giulia are present, even though operators are particularly well qualified. From the local surveys conducted and interviews with local associations, as well as from relevant news sources, Trieste



appears to be a marginal landing place compared with the coasts of southern Italy. Landings are sporadic, and do not involve many people, however the port of Trieste has the characteristic of being the only Italian port allowing direct transit from Turkey, with a service run by a Turkish company. Landings have occurred chiefly through the use of container ships, or migrants hiding inside trucks, risking death through being crushed or asphyxiation. According to local associations, in 2016 and 2017 30 minors, often accompanied, landed in Trieste through this channel.

## Gorizia:

The town is affected by incoming flows from both the Balkan Route and northern Europe. The flow from northern Europe is determined by entry into Italy to renew the international protection residence permit or to file a new application for protection further to a rejection from other States in the European Union. The flow from the Balkan Route on the other hand consists of persons entering Italy with the intention of applying for international protection and persons wanting to travel onwards to other EU States, and enter from the border with Slovenia.

Arrivals have been steady since 2015, varying from 5 to 20 persons a day. The flow consists of persons from Afghanistan, Pakistan and, to a lesser extent, Iraq, aged between 25 and 40 years old, male, with one or two families travelling.

With regard to the presence of UASC in this flow, meetings with local authorities reveal that in 2016 and 2017 5 and 6 UASC respectively used this entry channel. However, **interviews with migrants and volunteers operating in the field showed that minors were “hidden” in the local territory, and that they remain invisible due to the desire to carry on their journey to other destinations or to the fear of remaining blocked or separated from the group they usually travel with after having been identified by the police.**

These persons find temporary shelter at informal sites in Gorizia. The situation for these people has grown more difficult since the issue of a municipal order forbidding camping out in all public places. Migrants not placed in reception centres thus end up having to move around the town to avoid the dissuasive measures taken by law enforcement agencies in the futile attempt to carry out this unrealistic order.



An area that has been used since 2015 as a shelter is the brushwood on the banks of the river Isonzo, where the “jungle” of Gorizia is to be found. This place is inhabited by about a hundred people, who stay for periods of up to 20 days. Hygiene and safety conditions are naturally poor, as there are no services provided and the river is used as a water source to drink, wash and cook. The presence of a dam just beyond the bridge where the temporary shelters have been put up is a major danger and cause for concern: one person has already died due to the opening of the dam.

As an emergency measure an area of the church of San Luigi is being used as a dormitory, run by Caritas, when the number of migrants goes up beyond a certain number, or when it becomes too cold to sleep out in the open.

All year round, groups of volunteers, both local and from elsewhere, attempt to bridge the gaps in reception capacity, distributing food and blankets, and asking institutions help out and find places decent enough to host, even for short periods, persons excluded from the formal reception circuit.

It appears, from talking with local stakeholders, that the

difficulty in providing solutions to the above-described situation derives not so much from the shortage of resources or facilities as from the basic opposition to the presence of migrants in the local territory on the part of local political forces, who are worried that more people will arrive, attracted by the possibility of decent living conditions for them in the city.

Minors are not involved in arrivals from northern Europe, however flows from the north mean that 50 to 150 people are living on the streets of the city. For such numbers it would not be difficult to come up with accommodation solutions, bearing in mind the predictability of the phenomenon, and the natural expiry of residence permits issued by the Local Commission situated in Gorizia, the body responsible for assessing protection renewal applications.

# Conclusions

From the results of our assessment emerge, for the areas on Italy's northern borders, a widespread failure to apply the provisions laid down to protect unaccompanied minors, be they international, european or national regulations. Furthermore, the various operational practices we have observed harmful seriously the rights and the mental and physical wellbeing of the persons concerned.

**French, Swiss and Austrian authorities systematically send back minors intercepted by them to Italy and, albeit in ways varying from place to place, they fail to meet the obligations of i) protecting minors and ii) taking them into care.**

The obligation for member States, as per art. 3 subsection 1 of the Dublin III Regulation, to receive and examine any international protection request is constantly unfulfilled, to the extent that everybody, including minors, is materially denied the possibility of submitting the protection application even though migrants unambiguously express the desire to do so.

With regard to minors and the possibility of seeking asylum, this "general violation" of the law leads to other breaches regarding the failure to provide the special guarantees set forth in the Dublin III Regulation in favour of minors.

Irrespective of the seriousness of breaches committed by single States in border areas, if one observes the incidents that have occurred, control procedures and relative shortcomings, bullying tactics adopted and the arbitrary nature of decisions taken, it is easy to feel a sense of despondency and hurt. The question spontaneously arises, what is the "crime" of these people? What responsibilities they have to deserve all this?" It is difficult to understand the interest that justifies these choices, since it is impossible to rationally outline some responsibilities of the migrants justifying this.

**The management of migratory flows appears, as we have seen in practice, to be a sort of sanction system. The only fault of migrants appears to be that of wishing to free themselves, through enormous sacrifices, from the state of victims, from a way of life in which they are often the victims of abuse, exploitation and violence.**

**The deep sense of unease, even of nausea, that is felt when witnessing controls being carried out on the EU's internal borders probably derives from the perception that the system of controls tends to consider individuals as objects rather than persons. This appears to be the core of the problem, what migrants cannot be forgiven: the claiming of space and time by human subjectiveness.**

The situation as regards assistance and the hosting of

unaccompanied foreign minors in the areas under review affected by transit flows is not uniform, with conditions varying from place to place.

In Friuli Venezia Giulia and Piedmont minors are taken into care within 24 hours of the minor being identified, with placement in ad hoc facilities. The same cannot be said for Bolzano, where the norm seems to be the lack of protection, assistance and reception for minors.

In Como and Ventimiglia reception condition are "atypical", which is partly a result of the extent of flows affecting these areas. Reception centres thus differ from those required by law for minors, with inadequate facilities, overcrowding and a shortage of essential services. At the same time, in areas affected by enormous migrant flows, informal settlements have arisen, marked by critical hygiene and sanitary conditions and extreme physical and mental hardship for minors, the result of living on the streets when staying temporarily in the area before continuing their journey.

The dropout of minors hosted in centres is a phenomenon common to all areas surveyed, albeit to varying extents, depending on the period, nationality of minors and the areas where they are hosted. In addition to this phenomenon there is the question of minors reaching border areas after having dropped out of reception facilities in southern and central Italy. There are a number of reasons for leaving centres. For some the intention of leaving the structure is formed before they even enter the centre, being bound to the goal of reaching other destinations in different EU States as quickly as possible, in many cases to reunite with family members already present; for others it is the result of the stalemate situation that occurs too often in reception facilities, especially centres not adequately equipped to provide assistance, advice and education for the growth of hosted minors. **Failure to take minors into care, the serious delays in appointing a guardian, essential for safeguarding the interests of minors, the dearth or even total absence of services, the slowness of procedures for obtaining documents and the difficulty in initiating and then completing procedures for family reunification and relocation have serious consequences on minors and on the choices they make, often obliging them to try to cross the border out of desperation.**

The expectations of many of these youngsters, who have arrived in Europe aware of the challenges of contexts that are profoundly different from those of the countries of origin, with the main goal of constructing a respectable life through education and employment, come into conflict with a rigid system, which is still marked by serious inefficiency in terms of the quality and organisation of services. In too many cases this drives individuals towards brutalisation, having a dramatic bearing on the

development of youngsters' personality and an adverse impact on their desires and aspirations.

**These aspirations and dreams might constitute one day an important patrimony and resource for Europe. It would be smart to invest in the reception and integration of foreign minors, even in purely utilitarian terms, in addition to being the sign of a civilised society.** Simultaneously society would also benefit from the fact that integrated individuals with a fair degree of existential stability would tend not to swell the ranks of those involved in unlawful activities, networks that very often flourish due to the state of economic and social adversity experienced by marginalised members of society.





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# Annexes

# Annex N. 1: Refus d'Entree France

**FRANCE**



DDPAF des Alpes Maritimes  
 SPAF de Menton



**REFUS D'ENTREE**

Le Ablon/4 à 03heo, au point de passage frontalier de Breil sur Roya  
 devant le(s) soussigné(s) BSHou

s'est présenté(e) :

Nom : [REDACTED] Prénom : [REDACTED]  
 Né(e) le : \_\_\_\_\_ à \_\_\_\_\_  
 Sexe : 2002 M  
 Nationalité : enrythocine Résident à : \_\_\_\_\_

identifié(e) au moyen de \_\_\_\_\_ numéro : \_\_\_\_\_  
 délivré à \_\_\_\_\_ par \_\_\_\_\_ le \_\_\_\_\_  
 muni(e) d'un visa n° \_\_\_\_\_ de type \_\_\_\_\_ délivré par : \_\_\_\_\_  
 d'une durée de \_\_\_\_\_ jours pour les raisons suivantes : \_\_\_\_\_

En provenance de ITALIE, arrivé par A piées

*(identifier le moyen de transport utilisé, par exemple le numéro de vol) lequel a été informé qu'une décision de refus d'entrée a été prise à son encontre en vertu des articles L 211-1, L 211-3, L 212-2, L 213-1 et L 213-2 et R 213-1 du code de l'entrée et du séjour des étrangers et du droit d'asile (CESEDA).*

Accompagné(e) des enfants : \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Annex N. 2: Migrant identification report

  
**POLIZIA DI STATO**  
**QUESTURA DI TORINO**  
 Commissariato di Pubblica Sicurezza  
 V.le Vittoria n. 1 - 10052 Bardonecchia  
 Tel. 0122.909411  
 E-mail: com.bardonecchia.ta@prosp.poliziastato.it

**OGGETTO: VERBALE DI IDENTIFICAZIONE.**

L'anno 2017 addì 17 del mese di agosto alle ore 11,00, negli Uffici della Polizia di Stato di Bardonecchia (To), il sottoscritto Uff. le di P.G. [redacted], in servizio presso questo Ufficio, ha proceduto all'identificazione della sotto notata persona, accompagnata presso questi uffici dall'omologo organo di Polizia Francese di Monginevro (F) e fatta oggetto di "Respingimento" i località Colle della Scala, relativamente alla quale vengono eseguiti accertamenti sull'identità personale.///

Dopo essere stata ammonita circa le conseguenze alle quali si espone rifiutandosi di declinare le proprie generalità o fornendole false, l'interessato, in grado di comprendere quanto esposto nel presente verbale in lingua italiana, dichiara: SONO E MI CHIAMO: ///

COGNOME [redacted] NOME [redacted]

DATA E LUOGO DI NASCITA 04/04/2001 A CONAKRY (GUINEA CONAKRY)

NAZIONALITA' SED. GUINEANA RESIDENZA IVI RESIDENTE

PATERNITA' \_\_\_\_\_ MATERNITA' \_\_\_\_\_

STATO CIVILE [redacted] PROFESSIONE [redacted]

DOCUMENTO ESIBITO SEDICENTE \_\_\_\_\_ Nr. \_\_\_\_\_ ///

RILASCIATO IN DATA /// DA \_\_\_\_\_ ///

EVENTUALE USO DI SOSTANZE STUPEFACENTI NEGATIVO

La persona sopra generalizzata, intesa circa la facoltà di avvalersi dell'intervento della propria rappresentanza diplomatica, dichiara: "Non intendo avvalermene" ///

Dopo l'espletamento dei controlli di rito, alle ore [redacted] della [redacted] la persona su indicata, è stata [redacted] in possesso di ogni oggetto, somma di denaro ed effetto personale detenuto al momento del suo arrivo in questi uffici, fatto salvo quanto eventualmente sottoposto a sequestro. ///

fatto, letto, confermato e sottoscritto in data, ora e luogo di cui sopra. ///

Sc [redacted]

Il sopra citato minore era diretto a Briançon appiegato, all'arrivo alla frontiera statale francese del Colle della Scala veniva fermato da personale dell'omologo organo di Polizia francese che lo accompagnava presso questo Ufficio in quanto sprovvisto di documenti, veniva sottoposto a rilievi foto-dattiloscopici, a seguito riscontro A.F.I.S. risultava Fotosegnalato in data 16.07.2017 a Cosenza con indicazione "INGRESSO IRREGOLARE NELL'UNIONE EUROPEA (REGOLAMENTO EURODAC)".

Di quanto sopra veniva notificato il P.M. di turno per i minori, alle ore 17.00 del 17/08/2017, nella persona del [redacted] il quale valutata la situazione disponeva l'accompagnamento del minore presso la denominata [redacted] sita in via [redacted]

Allegati:  
 - Verbale identificazione.  
 - Verbale Affidamento.  
 - Esito AFIS  
 - Verbale visita medico-legale

  
 IL DIRIGENTE F.F. Il Commissariato  
 Commissario Capo della P. di S.  
 [redacted]

## Annex N. 3: Document issued by Swiss authorities to persons coming from Italy refused entry

 <p style="font-size: small;">Schweizerische Eidgenossenschaft Confédération suisse Confederazione Svizzera Confederaziun svizra  Swiss Confederation</p>	<p style="font-size: small;">Federal Department of Finance FDF Federal Customs Administration FCA Corpo delle guardie di confine Regione IV Posto guardie di confine Ferenova Via G. Matte 5 CH - 6830 Chiasso</p>
--	--

### Legal Right to Be Heard in the Ordering of Expulsion and Entry Prohibition Measures

1) RUMACA Nr: \_\_\_\_\_ Date of check: **13.05.2017**  
 Boarder Guard Post: Po Ferrovia Time: **16:00**  
 Place detained: Chiasso Via G.Motta 5, 6830 Chiasso

2) Personal particulars

Surname: \_\_\_\_\_  
 Maiden name: \_\_\_\_\_  
 First and middle name: \_\_\_\_\_  
 Date of birth: 01.05.2001  
 Sex: Maschio  
 City/country of birth: Mogadiscio  
 Nationality: Somalia  
 Address (street): SFD  
 Postal code/ City/Country: \_\_\_\_\_

3) Refusal to make statement  
 The above person has been informed of his/her right to refuse to make a statement.

4) Ascertainment  
 We are considering refusing entry to you for the following reasons:

(A) Entering the country without valid travel documents  
 (B) In possession of a false, falsified or forged travel document  
 (C) Not in possession of a valid visa or residence permit  
 (D) In possession of a false, falsified or forged visa or residence permit  
 (E) Not in possession of the requisite documents for evidencing purpose and conditions of stay  
 The following document(s) was(were) not produced:  
 (F) The maximum length of stay in the territory of the Schengen member states of three months within a period of six months was exceeded.  
 (G) Does not possess sufficient funds to cover living expenses in relation to the duration and circumstances of stay or for return travel to country of origin or transit  
 (H) Has been issued a notice of denial of entry (permanent refusal of entry) entered in the:  
 ZEMIS (Central Migration Information System)  RIPOL  SIS  
 (I) Poses a threat to public safety and security, internal security, public health or the international relations of one or more of members of the European Union.  
 Justification: \_\_\_\_\_

5) Removal measure (removal / refusal of entry)  
 Based on the facts of the case and your statements, you can either be refused entry into Switzerland, or you can be removed from Switzerland by the competent authority. The legal basis are article 64 ff of 16th December 2005 on the Federal Alien Law (AuG, SR 142.20).

Prohibition of Entry  
 Depending on the circumstances and facts of the matter and your statement, the competent authorities may review the imposition of a denial of entry against you:

- vis-à-vis the nationals of third States, a denial of entry (permanent refusal of entry) may be reviewed for the whole Schengen Area;
- vis-à-vis persons entitled to freedom of movement and the nationals of third States with a residence document from a Schengen State, a denial of entry (permanent refusal of entry) may be reviewed for Switzerland

6) Statement  
 In order to ensure due process and your right to be heard, we afford you the opportunity to give a statement in response to the denial of entry and expulsion, as well as the possible imposition of a permanent denial of entry.

I want to go to Germany. \_\_\_\_\_

7) No statement delivered

Renunciation  Refusal  No reasons given

Date: 13.05.2017, time: 17:05 Boarder Guard  
 Surname / First name (Service no.): \_\_\_\_\_  
 \_\_\_\_\_  
 Signature / stamp: \_\_\_\_\_  
 Read and noted by the person concerned:  
 \_\_\_\_\_  
 Signed: \_\_\_\_\_

Copies:  
 Copy to the person concerned  
 Copy to FOM together with report and any documents  
 Copy to cantonal authorities  
 Po Ferrovia

 <p style="font-size: small;">Schweizerische Eidgenossenschaft Confédération suisse Confederazione Svizzera Confederaziun svizra  Swiss Confederation</p>	<p style="font-size: small;">Federal Department of Finance FDF Federal Customs Administration FCA Corpo delle guardie di confine Regione IV Posto guardie di confine Ferenova Via G. Matte 5 CH - 6830 Chiasso</p>
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### Information sheet on the removal order

This is to provide you with important information on the significance of the removal order:

- It was ascertained that you do not fulfill the requirements to stay in Switzerland and that you have to leave the country. The arguments are stated in the removal order.
- The legal basis of the removal order are article 64 ff of the Federal Alien Law (AuG, SR 142.20).
- You have to leave Switzerland by the deadline stated in the removal order. If you do not comply with the deadline specified for leaving Switzerland, coercive measures can be applied to execute your removal. In order to ensure the execution of your removal, you may also be placed under detention.
- If no deadline specified for leaving Switzerland has been ordered, you will have to leave Switzerland immediately. If you do not comply with this, or if you pose a danger for public security and public order or for interior or external security, your removal can be executed by applying coercive measures. In order to secure the execution of the removal, you may also be placed under detention.
- If you do not agree with the removal order, you have the right to appeal. You have the right to wait for the decision on your appeal in Switzerland only if the competent court has allowed this.
- An appeal can be lodged with the competent authority within five working days after receipt of the removal order. The address of the competent authority is given in the decision. An appeal does not have a suspensive effect.
- In addition to the obligation to leave Switzerland, the Federal Office for Migration may also order a refusal on entry to the country.
- The removal order is to be kept safe.

Annex N. 4:  
**European Human Rights Court, notice of appeal against  
Government/Request for written information**

  
EUROPEAN COURT OF HUMAN RIGHTS  
COUR EUROPÉENNE DES DROITS DE L'HOMME

Communicated on 3 October 2017

**FIRST SECTION**  
Application no 70583/17  
M.A. against Italy  
lodged on 28 September 2017

**STATEMENT OF FACTS**

The applicant is a seventeen years old Ghanaian national, alleged victim of sexual violence.

**COMPLAINTS**

1. Invoking Article 3 of the Convention, the applicant complains about the reception's conditions in the Centre "Osvaldo Cappelletti" in Como, where she lives together with approximately one hundred eighty persons and where the conditions are not suitable to her vulnerable situation of unaccompanied minor and victim of sexual violence.

2. She invokes also Article 8 of the Convention, stating that the situation described in the facts seriously affects her right to respect for private life.

3. The applicant finally invokes Article 13 of the Convention stating that she did not have at her disposal an effective domestic remedy for her complaints under Articles 3 and 8 of the Convention. In particular, she alleges that the guardian appointed by the judicial authority did not undertake all the necessary actions provided by law in order to guarantee her fundamental rights.

**QUESTIONS**

1. Has there been a violation of Article 3 of the Convention due to the reception's conditions of the applicant in the Centre "Osvaldo Cappelletti" in Como, in particular considering that the applicant, a minor, has allegedly been victim of sexual and physical abuses?

  
COUNCIL OF EUROPE  
CONSEIL DE L'EUROPE

2 M.A. v. ITALY – STATEMENT OF FACTS AND QUESTIONS

2. Have the national authorities adopted all the necessary measures imposed by domestic and international law in order to ensure an adequate protection of the applicant's rights under Articles 3 (prohibition of inhuman and degrading treatment) and 8 (respect for private life) of the Convention?

3. Did the applicant have at her disposal an effective domestic remedy for her complaints under Articles 3 and 8 of the Convention, as required by Article 13 of the Convention? In particular, did the guardian appointed by the judicial authority undertake all the necessary actions provided by law in order to guarantee the applicant's best interest?

Annex N. 5:  
Statement of sanction for illegal entry in the territory of the State, issued to  
an unaccompanied foreign minor by Austrian authorities

Behörde LPD Tirol Block Nr. 087678 Fortl. Zi. 13

**Bescheinigung über eine vorläufige Sicherheitsleistung/Beschlagnahme auf Grund des**  
 **Verwaltungsstrafgesetzes 1991 – VStG**  FR  
 Zutreffendes ist angekreuzt

Auf Grund der erhaltenen Fremdsicherleistung von [REDACTED]  
 (Vorname, Nachname, Geburtsdatum, Wohnadresse)

geb. 25.11.1999 Somalia VSt/91/10044903/2017

ein Betrag von \_\_\_\_\_ eingehoben  Scheck  Kreditkarte:  
 statt des festgesetzten Betrages von 100€  
 zur Sicherung des Verfalls wegen Gefahr im Verzug

Folgendes beschlagnahmt: Handy Alcaitel plan  
EV 10674/2017

**Rechtsgrundlage:**  
 § 37 a Abs. 1 Z 1 VStG (Vorliegen der Voraussetzungen für eine Festnahme)  
 § 37 a Abs. 1 Z 2 VStG (Erhebliche Erschwerung der Strafverfolgung oder der Strafvollstreckung oder Verursachung eines unverhältnismäßigen Aufwandes durch diese)  
 § 37 a Abs. 3 VStG (Beschlagnahme wegen Nichtleistung einer vorläufigen Sicherheit in Geld)  
 § 39 Abs. 2 VStG (Gefahr im Verzug)  
 andere: \_\_\_\_\_

Ort, Datum: Ins am Bure 17.03.2017 Unterschrift: Wen





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