



ITALY

**ECPAT**

# COUNTRY OVERVIEW

*A report on the scale, scope and context of  
the sexual exploitation of children*

FEBRUARY, 2019



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This publication was written by:

**Andrea Varrella**

With assistance from:

**Mark Kavenagh**

Design and layout by:

**Manida Naebklang**

This report was also developed in collaboration with ECPAT Italia, the ECPAT Member in the country.



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**ECPAT International**

328/1 Phaya Thai Road, Ratchathewi,  
Bangkok, 10400 Thailand

Tel: +662 215 3388 | [www.ecpat.org](http://www.ecpat.org) | [info@ecpat.org](mailto:info@ecpat.org)

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## Preface

Recent years have seen unprecedented progress towards embedding the child's right to protection from sexual exploitation more deeply into the global agenda, no more so than the global mandate to eliminate the sexual exploitation of children (SEC) enshrined in the Sustainable Development Goals (SDGs) adopted by world leaders in 2015. ECPAT Country Overviews on SEC provide an effective tool for advocacy at all levels as well as for monitoring, including on government commitments made in the SDGs to end violence against children in all its different forms by 2030.

ECPAT Country Overviews are first and foremost, a desk review exercise that gather and present all the existing publicly available information into a comprehensive summary of all forms of SEC in a country. They do not contain any new primary data. They also provide an assessment of achievements and challenges in implementing counteractions - including the participation of children themselves - to eliminate SEC.

ECPAT Country Overviews also suggest concrete priority actions urgently needed to proactively advance the national fight against SEC and enable the monitoring of the implementation of international instruments on child rights related to sexual exploitation that have been ratified by the State. Furthermore, the ECPAT Country Overviews provide well-organised information and research, which can be used in preparing Alternative Reports and Additional Submissions to the Committee on the Rights of the Child and the Human Rights Council.

During the process, drafts are shared with ECPAT members, relevant local organisations, and experts working on the ground who review the content and supplement the information with other local sources and analysis. ECPAT International greatly relies on the contributions of all those involved in producing these reports and would like to express its profound appreciation for their invaluable inputs.

## At a Glance

A Parliamentary Republic and one of the world's biggest economies, Italy is home to over 60 million inhabitants, of whom 9,761,000 are children. The country has been affected in recent years by economic recession and increases in migration, which has aggravated the vulnerability to sexual exploitation of certain groups of children, in particular unaccompanied migrant minors. Minority children are also at greater risk of sexual exploitation due to ongoing discrimination and marginalisation in the country. The age of consent for both boys and girls, set at 14, is one of the lowest in Europe and causes further risk to children of sexual exploitation.

Exploitation of children in prostitution is a known issue. Links to trafficking, particularly in the South of Italy, have been clearly established. Poverty remains a major risk factor for sexual exploitation of children (SEC), but cases (outlined in this report) demonstrate that anyone can be affected, irrespective of their background. Reportedly, self-generated live-streaming of sexually explicit content is on the rise among Italian youth, which has been identified as a way perpetrators access or convince children to create child sexual abuse material.

Italy is a destination, transit and source country for children subjected to trafficking for sexual purposes, with the majority of identified victims coming from Nigeria, China and Eastern Europe. No clear estimates are available regarding the sexual exploitation of children in travel and tourism, although Italy is traditionally considered as a country of origin for offenders (male and female).

There are no official studies on child, early and forced marriage in Italy, but estimates have evaluated the rate of child marriages (often celebrated only at community level rather than in law) in the shanty towns of Rome at 77% (including both boys and girls).

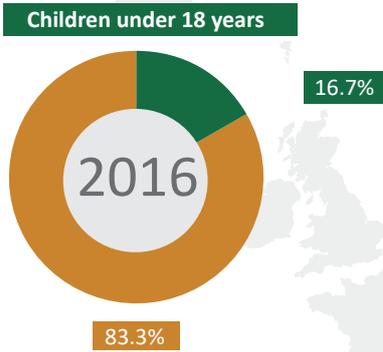
Italy has ratified all the major international conventions and is part of various European and global initiatives. The 2013 ratification of the Lanzarote Convention has brought improvements to Italian legislation, including a comprehensive definition of 'child sexual abuse material' and the criminalisation of grooming of children under 16 years of age. Yet this has left contradictions in the law given the legal age of consent remains 14.

Italy has some national policies on specific manifestations of SEC, but the overall plan on sexual exploitation and abuse of children is no longer in force and has not been updated. Moreover, there is little or no information regarding the implementation of these plans in previous years, so it remains hard to assess the effectiveness of policies and legislation.

Specialised law enforcement agencies and investigative police units deal with SEC and child victims can claim compensation through three different channels (civil courts, criminal courts and state-managed compensation funds). There are no specific mechanisms to ensure children participation in SEC-related policies and plans.

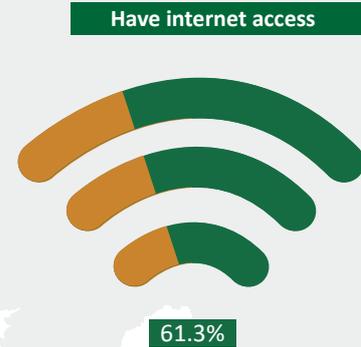
## POPULATION

SOURCE: UNICEF State of the World's Children Report 2017



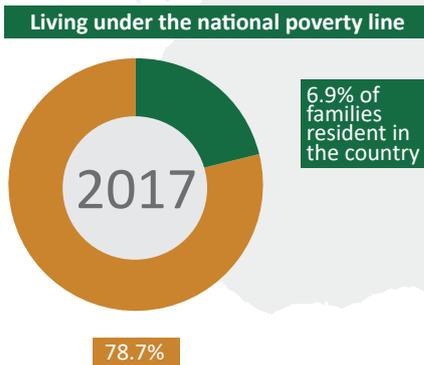
## INTERNET ACCESS

SOURCE: ITU Statistics 2018: Italy Country Profile



## POVERTY RATE

SOURCE: Istat 2018: Poverty in Italy



## MOBILE PHONE USERS

SOURCE: ITU Statistics 2018: Italy Country Profile



## CHILDREN'S RIGHTS UNDER THE LAW

	Boys	Girls
Age of consent for sex	14*	14*
Minimum age for marriage	18^	18^
Legal working age	16~	16~
Compulsory age of schooling	16 <sup>x</sup>	16 <sup>x</sup>

\* With a close-in-age exemption that allows those aged 13 to consent to sexual activity as long as their partner is under the age of 18, provided that the age gap between them is smaller than 3 years

^ With a few exceptions for children aged 16 and above

~ Under certain conditions set by law

<sup>x</sup> 10 years of compulsory education. Italian children usually start primary school at 6 years of age

# Introduction

## COUNTRY OVERVIEW AND SPECIFIC VULNERABILITIES LEADING TO THE SEXUAL EXPLOITATION OF CHILDREN

Located in the heart of the Mediterranean Sea, Italy is a parliamentary republic with over 60 million inhabitants<sup>1</sup> who, for the most part, are of Italian origin. Despite ranking 9<sup>th</sup> in the 2017 World Bank's annual GDP ranking,<sup>2</sup> Italy has faced important challenges since the 2008 financial crisis. Political instability, high unemployment rates and economic stagnation deteriorated the already fragile Italian economy.<sup>3</sup> According to the latest estimates of the Italian National Institute of Statistics (Istat) published in mid-2018, in 2017 1,778,000 families (6.9% of families resident in the country) lived below the poverty line; this is the highest proportion since 2005.<sup>4</sup> Poverty, along with unemployment and insufficient social structures, are factors that can lead to the exploitation of the most vulnerable in society, including children.

Although having a quite homogeneous population, Italy's demographics are currently changing as a result of the various international migration fluxes

that have affected the country in the last few decades. According to Istat's latest statistics, as of the 1<sup>st</sup> January 2018, 5,144,440 foreigners were resident in Italy,<sup>5</sup> which correspond to 8.5% of the entire population, an increase from the percentage recorded in 2002 (2.38%).<sup>6</sup>

Italy was home to 9,761,000 children in 2016.<sup>7</sup> Although not specifically defining a 'child', the Italian Civil Code establishes that legal adulthood is acquired at 18 years of age.<sup>8</sup> Therefore, all legislation related to children and youth refer to individuals under 18, unless otherwise specified. Among the lowest in Europe, the legal age for sexual activities – also known as age of consent – is set at 14 years with a close-in-age exemption that allows those aged 13 to consent to sexual activity as long as their partner is under the age of 18, provided that the age gap between them is smaller than 3 years.<sup>9</sup> The age of marriage is 18 for both girls and boys<sup>10</sup> with some exceptions.<sup>11</sup>

Italy has been acutely affected by the refugee crisis that started in 2015 when an upsurge of sea arrivals severely tested the ability of the Government to respond, process arrivals and provide support and protection to those genuinely fleeing war, violence and persecution. According to the figures released by the Italian Minister of

1 Istat (2018), "Demo.Istat. Bilancio demografico anno 2017 e popolazione residente al 31 Dicembre Italia".

2 The World Bank (2017) "Data: Gross Domestic Product".

3 Focus Economics (2018), "Italy Economic Outlook".

4 Istituto Nazionale di Statistica (2018), "Comunicato Stampa: La Poverta in Italia".

5 Istat (2018), "Immigrati.Stat. Stranieri residenti al 1 gennaio".

6 Istat (n.d.), "Demo Istat. Ricostruzione censuraria"; Scalea, Daniele (2017), "Come l'immigrazione sta cambiando la demografia italiana", 6, Dossier del Machiavelli.

7 UNICEF (2017), "The State of the World's Children 2017. Children in a Digital World", 175.

8 Government of Italy (1942), "Civil Code", Article 2.

9 Government of Italy (1889), "Criminal Code", Article 609-quarter.

10 Government of Italy, "Civil Code", Article 84.

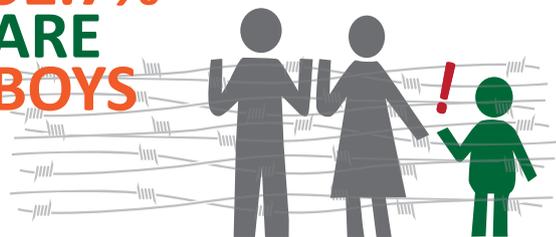
11 See page 19 of the report.

Interior at the end of November 2018, over 23,000 migrants, of which 3,426 were unaccompanied children, arrived in Italy since the beginning of 2018, travelling by sea and entering the country via its exposed shores.<sup>12</sup> In its latest monthly report (November 2018) on unaccompanied foreign minors, the Ministry of Labour, Family and Social Affairs states that the number of minors staying in reception centres or with foster parents is 11,339 of which the vast majority (92.7%) are boys.<sup>13</sup> Unfortunately, due to difficulties in verifying migrants' age, overcrowding in reception centres and the tendency of migrants to view Italy as a transit country and not a destination of its own, it is difficult to gauge the true number of unaccompanied foreign minors within the country. Worryingly, as of November 2018, 5,314 minors previously registered at reception centres were reported missing<sup>14</sup> and were therefore at risk of ending up in the hands of traffickers or criminal networks who might exploit them for labour and sexual purposes as well as other illicit activities.

## 11,339 UNACCOMPANIED FOREIGN MINORS

STAYING IN RECEPTION CENTRES OR  
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Another particular group at risk of sexual exploitation of children (SEC), especially through trafficking and prostitution, is the Roma population who, despite historically existing in Italy for a long time, is not officially recognised and protected as a minority. Due to a number of factors, including language barriers and lack of awareness on SEC, children belonging to minority groups may face additional vulnerabilities to SEC.<sup>15</sup> In particular, children belonging to Gypsy, Roma and Traveller communities often experience discrimination, social exclusion and isolation.<sup>16</sup> Moreover, they are historically excluded from education (either because of the education system in place or due to a parental choice) and are often portrayed by media and television as unruly and prone to inappropriate sexualised behaviours and early pregnancies.<sup>17</sup> Reportedly, in Italy, negative stereotypes and cultural biases against Roma people include perceiving child begging cases as “culturally ingrained practices”,<sup>18</sup> and these cases rarely lead to interventions as the population do not usually perceive the risk of exploitation for this group of children.

The exponential increase of media reports on different manifestations of SEC<sup>19</sup> confirms that Italian children are also at increased risk of sexual exploitation, especially in prostitution and through digital technology. According to a 2016 study report on the drivers of violence affecting children, elements that increase children's vulnerability to SEC in Italy are: previous experience of abuse, absence of a family for migrant children and invisibility of trafficking victims.<sup>20</sup> Reportedly, common patterns among Italian children who are sexually exploited are: belonging to families marked by domestic violence and alcohol abuse, and having family members already involved in the sex industry.<sup>21</sup>

12 Government of Italy, Ministry of Internal Affairs (2018), “Cruscotto statistico giornaliero 27 November”.

13 Ministero del Lavoro e delle Politiche Sociali (2018), “Report mensile minori stranieri non accompagnati (MSNA) in Italia”.

14 *Ibid.*

15 The Children's Society (2018), “Supporting black and minority ethnic children and young people experiencing child sexual exploitation”, 11.

16 *Ibid.*, 15.

17 *Ibid.*

18 Centre for the Study of Democracy (2015), “Child Trafficking among vulnerable Roma communities”.

19 See e.g. Greco, Francesco (2018), “Bambini dai 7 ai 9 anni costretti a prostituirsi con il consenso dei genitori per pochi euro: il fenomeno della prostituzione minorile in Italia”, *TPI News*, 29 November 2018; Il Messaggero (2018), “Madre faceva prostituire i figli di 3, 4 e 7 anni: fra i clienti anche un carabinieri”, 23 November 2018; Il Messaggero (2018), “Prima adescava minorenni sui social poi i rapporti sessuali: arrestato 37enne”, 15 November 2018,.

20 Istituto degli Innocenti (2016), “Multi-country study on the drivers of violence affecting children. Italian Report”, 36-37.

21 *Ibid.* 42 citing Carchedi, 2004; Save the Children, 2013; Camera dei Deputati, 2012.

## SEC Context in Italy

### EXPLOITATION OF CHILDREN IN PROSTITUTION<sup>22</sup>

Article 2 (b) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) defines 'child prostitution' as "the use of a child in sexual activities for remuneration or any other form of consideration".<sup>23</sup>

The exploitation of Italian children in prostitution is often triggered by poverty and the absence of an adequate welfare system.<sup>24</sup> In some cases, boys and girls are induced into prostitution by family members in order to be able to buy necessity goods.<sup>25</sup> According to ECPAT Italia, offenders often perceive themselves as benefactors supporting the families of their victims.<sup>26</sup>

There are no regularly kept government or police statistics on children exploited in prostitution in Italy. The most comprehensive and recent official report is a formal enquiry commissioned by the Parliamentary Commission on Childhood and Adolescence, which aimed at analysing the extent

of the exploitation of children in prostitution in the country by interviewing representatives of the public sector, judiciary and civil society working on the issue.<sup>27</sup> The survey does not provide an estimate but highlights that exploitation of children in prostitution is growing. The survey noted diverse groups of children affected including those using survival sex due to poverty; young girls who are not forced by financial circumstances but who actively engage in their own exploitation to buy luxury items; and unaccompanied minor migrants exploited by criminal organisations.<sup>28</sup>

Findings are grouped on a regional basis and show some peculiarities. For instance, between 2012 and 2014, there was an increase of 516% in the number of criminal proceedings for crimes related to the sexual exploitation of children in the Province of Rome.<sup>29</sup> The victims included boys and girls, but boys were predominantly foreigners.<sup>30</sup> In Liguria, a coastal region in the North-West of Italy, it was reported that the small number of court cases related to exploitation in prostitution involved either children already on the radar of social services because of psychosocial, family-related difficulties or children for whom atypical sexual behaviours have resulted in the failure of an adoption process.<sup>31</sup> In Southern Italy, the exploitation of children in prostitution was linked

22 ECPAT prefers the term 'exploitation of children in prostitution' instead of 'child prostitution' in line with the recently widely adopted Terminology Guidelines. Interagency Working Group on Sexual Exploitation of Children. (2016, January 28). *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*. 30. Bangkok: ECPAT International.

23 UN General Assembly. (2000, May 25). Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. (A/RES/54/263). Art. 2(b).

24 Parliamentary Commission on Childhood and Adolescence (2016), "Indagine conoscitiva sulla prostituzione minorile", 37.

25 *Ibid.*

26 *Ibid.*

27 *Ibid.*

28 *Ibid.*

29 *Ibid.*, 29.

30 *Ibid.*, 30.

31 *Ibid.*, 32.

more commonly to migration and trafficking, especially of young girls coming from Nigeria and some Eastern European States, like Romania, Moldova, Poland and Albania.<sup>32</sup>

With regards to the sexual exploitation of boys, it reportedly affects mainly children from North African countries and those who belong to ethnic minorities.<sup>33</sup>

Roma children seem to be particularly vulnerable, especially in Southern and Central Italy. Reportedly, the phenomenon was very widespread until 2008 and involved especially Roma children from Romania who were 'competing' with non-Roma Romanians.<sup>34</sup> According to Italian stakeholders the phenomenon appears to have declined in recent years, but there are still cases of Roma boys being exploited in prostitution in Rome and Naples.<sup>35</sup> Offenders usually find their victims online or in private premises such as spas and cinemas showing pornographic movies, or in public places where beggars may be found, such as city squares and transport routes.<sup>36</sup> In 2015, after a year-long investigation, the police closed down a cinema and arrested its manager and employees for grooming and facilitating the exploitation of Roma and Italian boys in private booths made available to clients to watch movies alone or with a companion.<sup>37</sup>

As mentioned above, in addition to difficult socio-economic situations, the exploitation of children in prostitution is also observed among adolescents from wealthy families who actively engage in their own exploitation because of boredom, consumerism, peer- pressure and weak parental support.<sup>38</sup>

A well-known example of this is the '*baby squillo*' scandal, which got widespread national attention. The two child victims in the case belonged to wealthy families living in a posh neighbourhood of Rome and the exploiters were middle-aged professionals including the husband of an Italian Member of the European Parliament.<sup>39</sup> In late 2018, the streaming provider Netflix released a new series "Baby" loosely inspired by these events.<sup>40</sup> Internationally, controversy has arisen around using a famous case of sexual exploitation as the basis for a television programme.<sup>41</sup> It is certainly of interest to see sexual exploitation of children achieving such mainstream attention, and ECPAT Italy has taken the opportunity on this occasion to contribute to the conversation emerging around the show's release as an opportunity to educate the public of the risks facing children.<sup>42</sup>

Recent events have once again shown how sexual exploitation in prostitution can happen to any child, irrespective of their background or place of residence and how perpetrators can belong to any societal group. A case in point is Silvio Berlusconi, at that time the Italian Prime Minister, who was accused of sexually exploiting a minor in prostitution. Although acquitted by the Supreme Court of Cassation in 2015 because he did not know that the involved girl was under 18,<sup>43</sup> Berlusconi is currently standing trial, being accused of 'witness tampering' in the previous trial.<sup>44</sup>

32 *Ibid.*,33.

33 Information provided by ECPAT Italia, the ECPAT Member in the country

34 Dimitrova, Kamelia and Slavyanka, Ivanova (2014), "Child trafficking among vulnerable Roma communities. Results of country studies in Austria, Bulgaria, Greece, Italy, Hungary, Romania and Slovakia".

35 *Ibid.*

36 Parliamentary Commission on Childhood and Adolescence (2016), "Indagine conoscitiva sulla prostituzione minorile", 35.

37 See e.g. Il Mattino (2015), "Donne, uomini e ragazzi si prostituivano dentro il cinema a luci rosse: sequestro alla Stazione", 4 May 2015; Nocera, Enrico and Cimmino, Francesca Saveria (2017), "Cinema e abusi: nel mercato della prostituzione minorile di Napoli", 10 May 2017.

38 *Ibid.*

39 See e.g. Sawkins Isabel (2015), "Mussolini husband convicted for 'baby squillo' peccadillo", *The Italian Insider*, 22 October 2015.

40 Lawrence, Britt (2018), "New Netflix show baby is under fire for its use of teen sex trafficking", *CinemaBlend*.

41 *Ibid.*

42 Information provided by ECPAT Italia, the ECPAT Member in the country.

43 Supreme Court of Cassation (2015), Sentence no. 22526, 10 March 2015.

44 See e.g. RTE (2018), "Former Italy PM Berlusconi faces new trial over prostitution case", 16 November 2018;; BBC News (2017), "Silvio Berlusconi faces new trial over witness bribery claims", 28 January 2017; La Repubblica (2018), "Ruby ter. La procura di Roma: "Processate Berlusconi e Apicella", 7 February 2018.

## ONLINE CHILD SEXUAL EXPLOITATION (OCSE)

Online child sexual exploitation (OCSE) can include child sexual abuse/exploitation material (CSAM/CSEM),<sup>45</sup> live streaming of child sexual abuse, online grooming of children for sexual purposes, sexual extortion of children and various CSAM/CSEM-related conducts (production, distribution, downloading).<sup>46</sup> Article 2 (c) of the OPSC defines ‘child pornography’ as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes”.<sup>47</sup>

With over 61% of the population using the Internet,<sup>48</sup> 30 million Facebook subscribers,<sup>49</sup> and 141.29 mobile phones per 100 population,<sup>50</sup> Italy is a highly connected country. As would be expected, young people are highly represented. According to a Save the Children-commissioned research conducted for the Safer Internet Day 2017, on average, children receive their first smartphone at

**CHILDREN  
RECEIVE  
THEIR  
FIRST  
SMARTPHONE  
AT 11.5  
YEARS**



11.5 years.<sup>51</sup> 22% of the young respondents in the study claimed that sending/live-streaming sexually explicit images in exchange for gifts is “quite a common practice among their friends”.<sup>52</sup>

According to the fact-finding enquiry of the Parliamentary Commission on Childhood and Adolescence, the most recent cases of child sexual abuse and exploitation in Italy happen and/or start online, especially through social media and smartphone apps.<sup>53</sup> A common pattern is for offenders to create a fake social media account to make contacts with children pretending to be peers.<sup>54</sup> Reportedly, 90% of cases of online grooming that leads to sexual exploitation in prostitution takes place on social media.<sup>55</sup>

Istat indicates that in 2017 alone, 560 OCSE-related offences were flagged by the police to the judicial authority.<sup>56</sup> The Postal and Communications Police Service, a unit of the State Police of Italy that is responsible for the investigation of cybercrime, identified and included in a specific blacklist 2,182 websites containing CSAM/CSEM in 2018,<sup>57</sup> an increase of 105 cases compared to the previous year.<sup>58</sup> In the same period, 43 people were arrested and 532 were reported to the police for CSAM/CSEM-related crimes.<sup>59</sup> With regards to online grooming, 136 people were reported to the police among which 3 were arrested.<sup>60</sup>

Despite some strong action from Italian authorities, civil society keeps flagging that the private sector continues to demonstrate unacceptable and persistent delays in removing illegal content and pages containing CSAM/CSEM on social media and an Italian NGO, *La Caramella Buona* ONLUS, has pressed charges against

45 ECPAT prefers the terms ‘child sexual exploitation material’ or ‘child sexual abuse material’, but in a legal context still uses ‘child pornography’ in line with the recently widely adopted Terminology Guidelines, 40.

46 ECPAT. (n.d.). Issues we work on. Bangkok: ECPAT International.

47 OPSC, Article 2(c).

48 ITU (2018), “Country ICT Data – Percentage of individuals using the Internet”.

49 Internet World Stats (2017), “Italy, data as December 2017”.

50 ITU (2018), “Country ICT Data – Mobile-cellular subscriptions”.

51 Ipsos (2017), “Il consenso in ambiente digitale: percezione e consapevolezza tra gli adulti”, Safer Internet Day 2017, 7 February 2017.

52 *Ibid.*

53 Parliamentary Commission on Childhood and Adolescence (2016), “Indagine conoscitiva sulla prostituzione minorile”, 48.

54 *Ibid.*, 50

55 *Ibid.*

56 Istat (2018), “Delitti denunciati dalle forze di polizia all’autorità giudiziaria”.

57 Polizia Postale (2018), “Polizia Postale: un anno di attività”.

58 Polizia Postale (2018), “Resoconto attività 2017”.

59 Polizia Postale (2018), “Polizia Postale: un anno di attività”.

60 *Ibid.*

Facebook for inducement to ‘child pornography’.<sup>61</sup> Reportedly, the European managers of Facebook met the representatives of the organization<sup>62</sup> but no updates on the case are available.

An analysis of the phone calls received by the two main Italian telephone helplines for children shows that sexting-related cases are rapidly increasing. In 2016, reported cases of sexting amounted to 7.1% of phone calls related to sexual abuse and exploitation received by the operators of the helpline 114 *Emergenza Infanzia*, compared to 3.7% in 2013. Furthermore, requests for help following sexting episodes accounted for 21.6% of phone calls received by the helpline *Pronto Telefono Azzurro* (19696).<sup>63</sup>

## SALE AND TRAFFICKING OF CHILDREN FOR SEXUAL PURPOSES

The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), defines ‘trafficking in persons’ as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.<sup>64</sup>

In case of child victims, Article 3 (c) of the Protocol specifies that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if it does not involve any of the means stipulated in Article 3 (a)”.<sup>65</sup> In other words, the Protocol recognises that children can never be willing participants to their own exploitation.

For its part, the OPSC deals with the ‘sale of children’, defined as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration”.<sup>66</sup>

Both concepts are often used in conjunction and without any clear distinction. However, despite a certain overlap, ‘sale of children’ is not identical to ‘trafficking’. The ‘sale of children’ always involves some form of commercial transaction, which trafficking in children does not require, but does not necessarily include the purpose of exploiting a child (e.g. sale of children for illegal adoption). Therefore, ‘sale of children’ is not necessarily related to sexual abuse and sexual or other forms of exploitation. Lastly, the ‘sale of children’ can take place without physically moving the child out of his/her social environment, whereas trafficking inherently depends on the movement of the child.<sup>67</sup>

Italy is a destination, transit and source country for children subjected to trafficking for sexual purposes.<sup>68</sup> According to the US Department of State, the majority of victims come from Nigeria, China and Eastern Europe.<sup>69</sup>

Accurate estimates of the phenomenon’s scale are not easy to provide due to the hidden nature of

61 Parliamentary Commission on Childhood and Adolescence (2016), “Indagine conoscitiva sulla prostituzione minorile”, 49.

62 *Ibid.*

63 SOS Il Telefono Azzurro ONLUS (2017), “Abuso sessuale e pedofilia. Storie, contesti e nuove sfide”, 45.

64 UN General Assembly. (2000, November 15). United Nations Convention against Transnational Organized Crime, Annex 2: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol). Res. 55/25 of 15. Art. 3 (a).

65 *Ibid.*, Article 3 (c).

66 OPSC, Article 2 (b).

67 ECPAT International. (2016, January 28). Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse. 58. Bangkok: ECPAT International.

68 US Department of State (2018), “Trafficking in Persons Report 2018”, 242.

69 *Ibid.*

the crime. However, there is no doubt that the trafficking of children for sexual purposes in Italy is inextricably linked to migration, with unaccompanied minors being particularly vulnerable.

According to data provided by the Department for Equal Opportunities, formal cases of child victims of trafficking who benefited from social protection projects in the framework of the National Plan against Trafficking in 2017 were 200 (196 girls and 4 boys), of whom 46% were sexually exploited.<sup>70</sup> 93.5% of the victims were Nigerian girls between 16 and 17 years of age.<sup>71</sup> The national helpline against trafficking reports that 5.5% of the 224 relevant phone calls received were related to minors.<sup>72</sup> Reported/formal cases are likely to be only a fraction of the extent of the problem.

Two worrisome recent trends identified are the trafficking of Nigerian girls and Romanian children.

According to the IOM, Nigerian women and unaccompanied minors are particularly vulnerable to trafficking for sexual purposes in Italy.<sup>73</sup> A comprehensive 2018 analysis on trafficking of children in Italy published by Save the Children Italia reports that the profile of child victims is gradually changing: girls are younger, poorer and less educated.<sup>74</sup> The girls are recruited by exploiters in Benin City or rural areas of the country often with the help of people in their circle or trust and/or the so-called 'Italos', former sex workers who, once back in Nigeria, falsely claim that engaging in prostitution in Italy is an easy path to success and economic stability.<sup>75</sup> Offenders maintain control over their victims by scaring them with voodoo and juju rituals involving animal sacrifices and the use of the victims' nails, hair and underwear.<sup>76</sup> In an attempt to reduce trafficking, in March 2018, the Oba of Benin, Nigerian

traditional ruler, revoked all voodoo rituals placed on trafficking victims and cursed people profiting from trafficking.<sup>77</sup> Unfortunately, Save the Children Italia reports that there is no evidence suggesting that the number of victims is decreasing after the Oba's order.<sup>78</sup>

Once they arrive in Italy and are placed in reception centres, girls lie about their age and the reasons for their migration, which can lead to their erroneous identification as migrants and not as victims of trafficking.<sup>79</sup> Cases are reported where they are even approached by exploiters inside reception centres.<sup>80</sup>

Due to a number of interconnected socio-economic factors including poverty and emotional neglect caused by the migration of their parents, Romanian children, especially female adolescents, can also be deceived into trafficking by criminal networks and/or peers who then force them into street prostitution in Italian cities.<sup>81</sup>

Roma boys from Romania are also recruited or kidnapped, often from orphanages, to be trafficked in Italy and exploited in prostitution.<sup>82</sup> The trafficking of Romanian children is a very hidden phenomenon mostly because of the physical and psychological manipulation they are subjected to, which act as a deterrent to seeking help.<sup>83</sup> Indeed, in 2017 just one child victim of trafficking from Romania has been taken into social protection.<sup>84</sup> As evidence of the hidden nature of this crime, Save the Children Italia reports that in the same year (plus the first three months of 2018), its outreach operators have identified 528 young Romanian girls (minors or who had just reached the age of majority) exploited in street prostitution, compared to 375 in the previous two years.<sup>85</sup>

70 Save the Children (2018), "Piccoli Schiavi Invisibili. I minori stranieri vittime di tratta e sfruttamento in Italia", 5.

71 *Ibid.*

72 *Ibid.*

73 IOM (2017), "La tratta di esseri umani lungo la rotta del Mediterraneo centrale", 16.

74 *Ibid.*, 20.

75 *Ibid.*

76 *Ibid.*, 21; Parliamentary Commission on Childhood and Adolescence (2016), "Indagine conoscitiva sulla prostituzione minorile", 21.

77 Nwaubani, Tricia Adaobi, (2018), "Nigerian traditional leader revokes voodoo curses placed on trafficking victims", *Reuters*, 13 March 2018.

78 Save the Children (2018), "Piccoli Schiavi Invisibili. I minori stranieri vittime di tratta e sfruttamento in Italia", 21.

79 *Ibid.*, 23; IOM (2017), "La tratta di esseri umani lungo la rotta del Mediterraneo centrale", 17.

80 *Ibid.*

81 Save the Children (2018), "Piccoli Schiavi Invisibili. I minori stranieri vittime di tratta e sfruttamento in Italia", 27.

82 Dimitrova, Kamelia and Slavyanka, Ivanova (2014), "Child trafficking among vulnerable Roma communities. Results of country studies in Austria, Bulgaria, Greece, Italy, Hungary, Romania and Slovakia".

83 Save the Children (2018), "Piccoli Schiavi Invisibili. I minori stranieri vittime di tratta e sfruttamento in Italia", 27.

84 *Ibid.*

85 *Ibid.*

## SEXUAL EXPLOITATION OF CHILDREN IN TRAVEL AND TOURISM (SECTT)

The sexual exploitation of children in travel and tourism (SECTT) is defined as any “acts of sexual exploitation embedded in a context of travel, tourism, or both”.<sup>86</sup> The UNWTO Framework Convention on Tourism Ethics recognises that the exploitation of children conflicts with the fundamental aims of tourism and should be strongly combated with the cooperation of all the States concerned.<sup>87</sup>

Besides being a well-known destination, which attracts millions of tourists per year,<sup>88</sup> recent data show also an increase in the number of international departures from Italy. Indeed, according to a survey on international tourism conducted in 2018 by the Bank of Italy, in 2017 Italians went on 64.5 million trips abroad, which corresponds to a 4.1% increase from 2016.<sup>89</sup>

## IN 2017 ITALIANS WENT ON 64.5 MILLION TRIPS ABROAD



Although showing positive trends in the national tourism-related expenditures and revenues, such high numbers may be worrying from a SEC perspective. Unfortunately, clear estimates on the scope and extent of the sexual exploitation of children in travel and tourism in Italy (and Western Europe in general) are not available due to the hidden nature of the crime as well as under-reporting and lack of standardised data collection systems.<sup>90</sup>

Despite this lack of recent data and information, Italy is traditionally considered as a country of origin for offenders, along with most Western European countries.<sup>91</sup> A report carried out by ECPAT and ANPPCAN in 2015 on SECTT in Kenya found that Italians were among the top nationalities of typical offenders travelling to the country to sexually exploit children, according to key informants.<sup>92</sup>

## CHILD, EARLY AND FORCED MARRIAGE (CEFM)

The Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse (Luxembourg Guidelines) define ‘child marriage’ as “a marriage in which at least one of the parties is a child. It also refers to the act of marrying off children, usually young girls, with or without their consent”.<sup>93</sup> Some forms of child marriage are related to commercial sexual exploitation of children, in cases where child marriage is linked to forced child labour, slavery and bondage, servitude or payment of a dowry.<sup>94</sup>

86 ECPAT International, Defence for Children, Ministry of Foreign Affairs of the Netherlands. (2016, May). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism (hereinafter Global study on SECTT)*. Bangkok: ECPAT International.

87 UN General Assembly. (11-16 September 2017). Consideration, approval or adoption of the UNWTO Framework Convention on Tourism Ethics. UN Doc. A/RES/707(XXII). Art. 5 (3).

88 See e.g. UNWTO (2018), “UNWTO Tourism Highlights- 2018 Edition”.

89 Banc d'Italia (2018), “Indagine sul turismo internazionale”, 11 June 2018, 9.

90 ECPAT International jointly with Defence for Children –ECPAT Netherlands (2016), “Global Study on Sexual Exploitation of Children in Travel and Tourism. Regional Report Europe” 9.

91 *Ibid.*, 26.

92 ANPPCAN jointly with Defence for Children – ECPAT Netherlands (2015), “Global Study on Sexual Exploitation of Children in Travel and Tourism. Country-specific report. Kenya”, 19.

93 Terminology Guidelines, 63.

94 ECPAT International and Plan International. (2015), Thematic Report. Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage. Bangkok: ECPAT International.

There are no official statistics on CEFM in Italy. However, in the past few years, media and NGOs have often devoted attention to this issue especially in reference to migration and ethnic minorities.

Research which sheds light on how prevalent the practice may be in particular sections of the Italian population was published in November 2017 by the *Associazione 21 luglio* ONLUS, a local NGO that fights against discrimination and ethnic segregation and promotes the rights and welfare of children.<sup>95</sup> The report compiles the findings of a two-year long study conducted in the shanty towns of Rome where over 3,000 people live.<sup>96</sup>

Out of 142 married men and women, over 50% got married when they were under 18 years of age.<sup>97</sup> 72% of young brides and grooms got married when they were between 16 and 17, whilst 28% percent were between 12 and 15.<sup>98</sup> ECPAT Italia notes that these marriages are often celebrated only at community level rather than in civil law (though they may later be legally registered). If this study is representative of the shanty town population, the rate of child marriage is as high as 77%,<sup>99</sup> which is higher than that of any country in the world.<sup>100</sup>

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95 Associazione 21 luglio ONLUS (n.d.), “Chi siamo”, <http://www.21luglio.org/21luglio/chi-siamo/>.

96 Associazione 21 luglio ONLUS (2017), “Non ho l’età. I matrimoni precoci nelle baraccopoli della città di Roma”, November 2017.

97 *Ibid.*

98 *Ibid.*

99 *Ibid.*

100 Girls not Brides (2018), “Child marriage around the world”.

## International, Regional and National Commitments and Legislation on SEC

### Status of ratification of relevant international and regional instruments, reporting to human rights bodies and engagement with the special procedures of the Human Rights Council

International Instruments		Date of ratification/ accession
Convention on the Rights of the Child - 1989		1991
Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography - 2000		2002
Optional Protocol on a communications procedure - 2011		2016
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)		2000
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)		2006
Regional Instruments		Date of ratification/ accession
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse – Lanzarote Convention		2013
Council of Europe Convention on Cybercrime – Budapest Convention		2008
Council of Europe Convention on Action against Trafficking in Human Beings		2010
Human Rights Bodies	Date of latest submitted report	Comments
Committee on the Rights of the Child (CRC review)	2017	Italy will be under review during the 80 <sup>th</sup> session (14 January – 1 February 2019)
Committee on the Rights of the Child (OPSC review)	2004	
Human Rights Council – Working Group on the Universal Periodic Review	2014	Italy will be under review during the 34 <sup>th</sup> session (July 2019)

## INTERNATIONAL AND REGIONAL COMMITMENTS

International commitments	
Commitment	Start date
Sustainable Development Goals	2016
WeProtect - an international movement dedicated to national and global action to end the sexual exploitation of children online	2012 <sup>101</sup>
Regional commitments	
Commitment	Start date
Council of Europe - the European leading human rights organisation	1949 <sup>102</sup>
European Union	1958 <sup>103</sup>

In terms of international cooperation and commitments, it is worth mentioning that Italy submitted its Voluntary Report on the implementation of the SDGs in July 2017.<sup>104</sup> The report presents the National Sustainable Development Strategy 2017-2030, which defines the strategic framework to be used to mainstream the SDGs into national planning. SEC is mentioned in one of the five areas under which the Strategy is divided (People, Planet, Prosperity, Peace and Partnership). In fact, one of the strategic national goals under the ‘Partnership area’ is to “improve young people and minors’ living conditions, combating: trafficking of young people, women, children and adolescents; work exploitation of children; new forms of slavery; juvenile crime; disabled minors; minors’ sexual exploitation; all forms of abuses, among which sexual mutilations; sexual violence; sexual diseases HIV/AIDS; discriminations on the citizenship rights ”.<sup>105</sup>

Italy is involved in several European and international SEC-related initiatives, especially with regards to online child sexual exploitation. Reportedly, the Ministry of the Interior has been proactive in developing and implementing activities aimed at facilitating information exchange with Interpol, Europol and SIRENE,<sup>106</sup> the network that supports cooperation and coordination between law enforcement agencies in the EU member states.

In the framework of the WePROTECT Global Alliance Against Child Sexual Abuse Online, Italy has reaffirmed and endorsed the Statement of Action of the London WePROTECT Summit of December 2014 during the 2015 WePROTECT Summit in Abu Dhabi. It also agreed to establish and develop a coordinated national response to online child sexual exploitation in accordance with the Model National Response,<sup>107</sup> which describes the capabilities needed for an effective child protection system. Current national policies and legislation aimed at preventing and protecting children from sexual exploitation are described in the sections below.

The Postal and Communications Police participates in the European Information Technology Crime Working Group, the High-Tech Crime Committee of Europol and the Commission’s Police Cooperation Working Group for Europe.<sup>108</sup>

## NATIONAL LEGISLATION

### Exploitation of children in prostitution

Following the ratification of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as ‘the Lanzarote Convention’, Italian legislation has been greatly innovated in

101 European Commission, “Declaration on the Launch of the Global Alliance against child sexual abuse online”, 5 December 2012.

102 Council of Europe, “Statute of the Council of Europe”.

103 European Union (n.d.), “Countries”.

104 Italian Ministry for the Environment, Land and Sea (2017), “Voluntary National Review Italy, National Sustainable Development Strategy”, July 2017.

105 *Ibid.*, 13.

106 Council of Europe (2017), “Lanzarote Convention, Italy, Replies to the thematic questionnaire “The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”, 26 October 2017, 31.

107 WeProtect Global Alliance (2015), “WeProtect summit- Statements of action 2015”.

108 Council of Europe (2017), “Lanzarote Convention, Italy, Replies to the thematic questionnaire “The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”, 26.

order to be in compliance with the Convention, strengthen its current provisions and provide a more comprehensive criminalisation of SEC-related offences. Recently, in the context of the Economist Intelligence Unit's 2019 benchmarking study on national responses to child sexual abuse and exploitation, Italian legal framework has been scored 79.3 out of 100, where 100 means "best environment for children".<sup>109</sup>

According to article 600-bis of the Criminal Code, the exploitation of children in prostitution includes recruiting, inducing, procuring, exploiting, managing and controlling a person under 18 years of age for prostitution as well as profiting from such an exploitation. Penalties are from six to twelve years of imprisonment plus a fine up to 150,000 euros. The article does not just punish intermediaries facilitating and profiting from the exploitation in prostitution but also offenders who commit sexual acts with children between 14 and 18 years in exchange for payment or other economic consideration, even if only promised.<sup>110</sup> The limited age range provided by the law could be explained by the fact that, as mentioned above, performing sexual acts with a child below 14 is always considered aggravated sexual violence, according to article 609-ter.<sup>111</sup> Moreover, this age limit rises to 16 when the perpetrator is an ascendant, a parent – also adoptive – or the parent's partner, the guardian or other person to whom the child is entrusted for reasons of care, education, surveillance or custody, or a person cohabiting with the child.<sup>112</sup>

Furthermore, Article 414-bis criminalises the act of instigating a person to commit sexual offences, including exploitation in prostitution, against a child.<sup>113</sup>

## Online child sexual exploitation (OCSE)

Another innovation introduced by the ratification of the Lanzarote Convention, is the inclusion in the Italian Criminal Code of quite a comprehensive definition of child sexual abuse material,<sup>114</sup> which directly reflects Italian Article 20.2 of the Lanzarote Convention.<sup>115</sup> Among the illicit conducts included is: the use and inducement of any person under 18 years of age for the production of pornographic shows and sexual abuse materials, as well as profiting from these shows and materials and trading such materials.<sup>116</sup> Distributing, disseminating, or advertising CSAM along with disseminating information to solicit children into CSAM are punishable by imprisonment of up to 5 years and a fine.<sup>117</sup>

Offering or providing CSAM is punished whether it was done for monetary gain or not.<sup>118</sup> The Italian Criminal Code also punishes the mere possession of CSAM with up to three years of imprisonment and a fine.<sup>119</sup>

However, according to a recent decision of the Italian Supreme Court, when the images are self-produced by the child himself/herself (e.g. selfies) and shared without being coerced, the persons who received and distributed them are not punishable.<sup>120</sup>

The Italian legislation also bans viewing pornographic exhibitions and shows involving children.<sup>121</sup> Positively, it is worth mentioning that this provision could be used to criminalise live streaming of child sexual abuse, a practice on the rise, which combines the exploitation of children in prostitution and the production of CSAM.<sup>122</sup>

109 Economist Intelligence Unit (2019), "Out of the shadows. Shining lights on the response to child sexual abuse and exploitation- a 40-country benchmarking study".

110 Government of Italy, "Criminal Code", Article 600-bis.

111 *Ibid.*, Article 609-bis.

112 *Ibid.*

113 Government of Italy, "Criminal Code", Article 414.

114 Government of Italy, "Criminal Code", Article 600-ter.

115 Lanzarote Convention, Article 20.2 "For the purpose of the present article, the term "child pornography" shall mean any material that visually depicts a child engaged in real or simulated sexually explicit conduct or any depiction of a child's sexual organs for primarily sexual purposes".

116 Government of Italy, "Criminal Code", Article 600-ter.

117 *Ibid.*

118 *Ibid.*

119 *Ibid.*, Article 600-quarter.

120 Corte di Cassazione, Sez II Penale (2016), "Sentenza 21 Marzo 2016 no. 11675".

121 *Ibid.*, Article 600-ter.2.

122 See e.g., Luxembourg Guidelines, 46.

However, an analysis of recent jurisprudence on the topic available online at the time of writing shows that this as yet to be tested in the legal system.

Unfortunately, national legislation does not punish knowingly obtaining access through information and communication technologies (ICTs) to CSAM, as provided by the Lanzarote Convention.

The above-mentioned provisions also apply to cases where materials depicting children are generated by graphic techniques but seem to represent real situations because of their high quality resolution (also known as ‘virtual pornography’ or ‘digitally generated child sexual abuse material’).<sup>123</sup> Probably based on the wrong assumption that this kind of materials do not harm children because they don’t involve any physical contact, penalties are decreased by one third.<sup>124</sup>

When CSAM-related offences involve large quantities of materials, penalties are increased by up to two thirds.<sup>125</sup> However, no guidance is provided regarding the specific amount required for the applicability of the increased penalty.

Article 609-undecies of the Italian Criminal Code, introduced after the ratification of the Lanzarote Convention criminalises the solicitation/grooming of children under 16 years of age with the intention of committing a sexual offence. Grooming is defined as any act aimed at gaining the trust of the child by using various means including the Internet and ICTs.<sup>126</sup> Although based on Article 23 of the Lanzarote Convention,<sup>127</sup> the Italian provision shows some positive differences that go beyond the Lanzarote recommendations. First, the intention to meet the child is not required for it to constitute a crime and all acts conducted in order to build a relationship of trust with the intention of committing a sexual offence are criminalised. Moreover, although the Lanzarote

Convention sets the age of consent (provided by national legislation) as the limit for the applicability of grooming provisions,<sup>128</sup> the Italian Criminal Code protects all children below 16 years of age from grooming (bearing in mind that the age of consent is 14). Lastly, the means and modalities by which offenders may groom children are not limited to the online space (as provided by the Convention), but include communications happening ‘off-line’ as well. The legislators’ efforts in providing a more comprehensive and protective framework against grooming are praiseworthy, but a gap still remains with regards to child victims between 16 and 18 years of age. Although the choice of the Italian legislators to criminalise the mere intention of committing a sexual offence led to an increase in the number of cases reported by the Police to the judicial authority, it created a provision that *de facto* does not require ‘material acts’ leading to the meeting between a child and adult who has the intention to exploit him/her, as provided by the Lanzarote Convention.

With regards to Internet Service Providers (ISPs), there is a duty under the law to report to the National Centre for Combating Child Pornography any company or individual disseminating, distributing and trading CSAM.<sup>129</sup> ISPs are also required under the law to filter and block any such illegal content.<sup>130</sup> An administrative penalty of up to 250,000 euros applies in case of omission in reporting, filtering and blocking.<sup>131</sup>

## Sale and trafficking of children for sexual purposes

As a result of the execution of EU Directive 2011/36 and following legislative amendments, since 2014, the Italian Criminal Code contains a provision criminalising the trafficking of children for, *inter alia*, sexual purposes.<sup>132</sup> Although in compliance with the EU Directive and the Palermo Protocol, the Italian legislation does not

123 Government of Italy, “Criminal Code”, Article 600-quarter.1.

124 *Ibid.*

125 *Ibid.*, Article 600-ter and 600-quarter.

126 Government of Italy, “Criminal Code”, Article 609-undecies.

127 Lanzarote Convention, Article 23, “Each Party shall take the necessary legislative or other measures to criminalise the intentional proposal, through information and communication technologies, of an adult to meet a child who has not reached the age set in application of Article 18, paragraph 2, for the purpose of committing any of the offences established in accordance with Article 18, paragraph 1.a, or Article 20, paragraph 1.a, against him or her, where this proposal has been followed by material acts leading to such a meeting.”

128 Lanzarote Convention, Article 23 referencing Article 18.

129 Government of Italy, “Law No. 269 of 1998 “Provisions against the Exploitation of Prostitution, Pornography, and Sexual Tourism to the Detriment of Children: The New Forms of Slavery”, Article 14-ter.

130 *Ibid.*, Article 14-quarter.

131 *Ibid.*, Article 14-ter and quater.

132 Government of Italy, “Criminal Code”, Article 601.

explicitly state that a child's consent to his/her own exploitation is irrelevant. In fact, according to the wording of the provision, the distinction between adult and child trafficking is not a matter of consent, but the fact that the legislator does not limit the modalities by which the latter is conducted.<sup>133</sup> The acknowledgement that consent is irrelevant for a child is not explicitly mentioned, as opposed to the Palermo Protocol. Offenders are punished with imprisonment for up to 20 years.

Italian law does not provide any specific legislation on the sale of children for sexual purposes. However, Article 602 of the Criminal Code further criminalises "the buying or selling of slaves" in situations there are not covered by the previous provision on trafficking. If the victim is a child under 18 or if the acts are committed for the purposes of sexual exploitation in prostitution or organ removal, the maximum penalty is increased from 20 to 30 years of imprisonment.<sup>134</sup> It is worth noting that the article does not mention sexual purposes other than exploitation through prostitution (e.g. producing CSAM, or child, early and forced marriage).

A specific provision addressing unaccompanied child victims of trafficking (which refers to migrants) provides further protection, establishing that they should be given adequate information on their rights, including the possibility of seeking international protection.<sup>135</sup> In cases where the age of the victim cannot be verified, he/she is presumed to be a minor.<sup>136</sup> Moreover, the law states that in order to determine the age of the trafficking victim, specialist experts in different fields should be consulted and the ethnic and cultural peculiarities of the child should be taken into consideration during the age determination process.<sup>137</sup>

Lastly, the legislation on migration criminalises a large span of conducts relating to the

transportation of migrants and which provides for increased penalties if the victim is a child and the crime is committed for the purposes of engaging in illegal activities including any form of exploitation.<sup>138</sup>

### Sexual exploitation of children in travel and tourism (SECTT)

Italian Criminal Code punishes any person who organises or advertises trips aimed at exploiting children in prostitution. Penalties include imprisonment from six to twelve years and a fine up to 154,000 euros.<sup>139</sup>

Moreover, tour operators organising trips abroad are obliged by law to include a warning against the illegality of SECTT-related conducts in all informative and marketing material, including promotional and advertising material, offers of services and travel documentation.<sup>140</sup> Unfortunately, according to the latest report of the Bilateral National Authority of Tourism on the application of the law on "provisions against the exploitation of prostitution, pornography, and sexual tourism to the detriment of children: the new forms of slavery", in 2017, only four out of five of the 204 assessed tour operators complied with their legal obligation.<sup>141</sup>

It is worth noting here that one travel and tourism company based in Italy and fifteen with operations in the country have committed to the mission of preventing SECTT, by becoming members of the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism (an industry-driven initiative supported by ECPAT, UNICEF and the UNWTO).<sup>142</sup>

### Child, early and forced marriages (CEFM)

As mentioned above, in Italy children below 18 years cannot marry.<sup>143</sup> However, Article 84 of the

133 According to Article 601, the means for trafficking of human beings are: deception, violence, threats, abuse of authority or of a position of vulnerability, physical, psychological inferiority, need or of the giving of receiving of payments or benefits.

134 Government of Italy, "Criminal Code", Article 602.

135 Government of Italy, "Legislative Decree 24 of 2014", Article 4.

136 *Ibid.*

137 *Ibid.*

138 Government of Italy, "Legislative Decree 286 of 1998", Article 12. 3ter.

139 Government of Italy, "Criminal Code", Article 600-quinquies.

140 Government of Italy, "Law No. 269 of 1998 "Provisions against the Exploitation of Prostitution, Pornography, and Sexual Tourism to the Detriment of Children: The New Forms of Slavery", Article 16.

141 EBNT (2018), "Osservatorio Nazionale circa l'applicazione della legge 269/98 e del Codice di Condotta recepito il 19 Luglio 2003 dal CCNL del Turismo", 11th Edition, March 2018, 9.

142 The Code (n.d.), "Members".

143 Government of Italy, "Civil Code", Article 2.

Civil Code provides for an exception in favour of children aged 16 and above who personally present a motion to the Court. Following the ascertainment of the minor's psychophysical maturity and after consultation with the parents or the guardian and the judicial authority, the Court can authorise the minor to marry.

A complaint can then be presented before the Court of Appeal within 10 days of the communication being transmitted to the judicial authority, parents or guardian.<sup>144</sup> Emancipation is automatically granted after a marriage's approval.<sup>145</sup> This status means that the minor is no longer under his/her parents' control and he/she can perform administrative routine tasks.<sup>146</sup>

The law does not specify which situations should be considered 'serious' but, an analysis of case law shows that recurrent motives are: pregnancy, living together as husband and wife, bad relationship with the family of origin and economic reasons.<sup>147</sup> This lack of clarity in the legal provision may lead to disguised cases of CEFM for exploitative purposes.

## Extraterritorial jurisdiction and extradition law

Pursuant to Article 604 of the Italian Criminal Code, extraterritorial jurisdiction applies to all offences related to sexual abuse and exploitation when the offender or the victim is an Italian citizen and the crime is committed abroad.<sup>148</sup> Extraterritorial jurisdiction also applies to crimes committed abroad by a foreigner with an Italian accomplice.<sup>149</sup> In this latter case, the foreign offender can be convicted only for those crimes penalised with a maximum time of imprisonment no shorter than 5 years and upon request of the Minister of Justice.<sup>150</sup>

With regards to extradition, the Italian Penal Code establishes the double criminality requirement for extradition, which means that the offender can be extradited only if the crime he/she committed was prohibited in both his/her country of origin and in the country where the crime was committed.<sup>151</sup> Moreover, the extradition of an Italian citizen is limited to cases where it is explicitly provided by an international convention.<sup>152</sup> Although both the OPSC and the Lanzarote Convention can be used as a legal basis for extradition,<sup>153</sup> decisions on extradition are made at the discretion of the judge. The limitations described abroad may hamper the conviction of offenders and increase the level of impunity for SEC-related crimes.

144 *Ibid.*, Article 84.

145 *Ibid.*, Article 390.

146 *Ibid.*

147 Calvigioni, Renzo (2014), "Il matrimonio del minore di età".

148 Government of Italy, "Civil Code", Article 604.

149 *Ibid.*

150 *Ibid.*

151 Government of Italy, "Criminal Code", Article 13.

152 *Ibid.*

153 OPSC, Article 5; Lanzarote Convention, Article 38.3.

## National Response to SEC

### COORDINATION AND COOPERATION

The most relevant coordinating body at national level is the Department for Equal Opportunities of the Council of Ministers that is in charge of developing national strategies for preventing and combating child sexual abuse and exploitation.<sup>154</sup> Every year, the Department for Equal Opportunities presents a report to the Parliament on the coordination activities implemented by all branches of the Government in order to prevent and protect children from sexual abuse and exploitation.<sup>155</sup> The latest report available on the Department's website (from 2015) is divided into three parts: the first focusing on the institutional setting, the second detailing and describing new legislative initiatives at the national, European and global level and the third analysing prevention activities conducted by governmental bodies and CSOs – including ECPAT Italia - during that year.<sup>156</sup> Unfortunately, more recent data are not yet available.

The Head of the Department for Equal Opportunities presides over the Observatory for the Fight against Paedophilia and Child Pornography which was established by law.<sup>157</sup> The Observatory is currently composed of representatives of the State Police and military

corps with police duties (*Guardia di Finanza and Carabinieri*), the Ministry of Justice, the Department for Equal Opportunities and three CSOs (Save the Children, Terre des Hommes and Association SOS *Telefono Azzurro*).<sup>158</sup> The main duty of the Observatory is to acquire and monitor data and information on all activities aimed at preventing and repressing child sexual abuse and exploitation.<sup>159</sup> These data and information are then stored in a database to be used for monitoring and research purposes. Unfortunately, it seems that, although a database has reportedly been established and implemented, no report has been published so far. According to the 2017 report of the Italian Working Group on the Convention on the Rights of the Child,<sup>160</sup> a comprehensive report on the data and information included in the database would be a powerful tool to understand whether the current data-gathering system is efficient or if changes are required to have a clearer picture of the extent of SEC in Italy.<sup>161</sup>

Another task of the Observatory is to develop the National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children, which has to be approved by the National Observatory for Childhood and Adolescence within the framework of the wider National Plan of Actions and Interventions for the Protection of the Rights and Development of Children and Adolescents.<sup>162</sup>

154 Government of Italy, Department for Equal Opportunities (n.d.), "Competenze", last update 20 October 2016.

155 Government of Italy, Law No. 269/1998, Article 17.

156 Government of Italy, Department for Equal Opportunities (2015), "Relazione al Parlamento sull'attività di coordinamento di cui all'articolo 17 comma 1, della Legge 3 Agosto 1998, n.269".

157 *Ibid.*, Article 17.1bis.

158 Government of Italy, Presidency of the Council of Ministers (2016), Ministerial decree of 30 August 2016.

159 Government of Italy, Department for Equal Opportunities (n.d.), "Osservatorio per il contrasto della pedofilia e della pornografia minorile", last update 31 October 2016.

160 A network of Italian NGOs working together to promote the rights of children. Gruppo CRC (n.d.), "Chi siamo".

161 Gruppo CRC (2017), "I diritti dell'infanzia e dell'adolescenza in Italia. Terzo rapporto supplementare alle Nazioni Unite sul monitoraggio della Convenzione sui diritti dell'infanzia e dell'adolescenza in Italia", 17, November 2017.

162 Government of Italy, Department for Equal Opportunities (n.d.), "Osservatorio per il contrasto della pedofilia e della pornografia minorile".

A National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children, which is the primary national strategy against SEC, was in place until 2017. The National Plan was based on four main strategic areas of intervention: prevention, victim protection, countering crimes and monitoring. For each area, the Plan identified goals and related activities, and actions to be undertaken by relevant Ministries, regional and local authorities and CSOs.<sup>163</sup> OCSE, SECTT, access to justice and remedies for child victims of sexual exploitation were all explicitly addressed in the National Plan.<sup>164</sup> Of particular interest were the actions provided in relation to the last strategic area: monitoring. According to the Plan, relevant stakeholders should develop indicators to identify vulnerable children, conduct research to determine risk factors and assess the effectiveness of prevention measures and initiatives.<sup>165</sup> Unfortunately, after its expiration the Plan has not been updated. Moreover, due to the changes in the government regime, reportedly the Observatory has been recently placed under the management of the Department of Family Policies, creating further delays in the drafting and implementation of a new plan.<sup>166</sup>

The above-mentioned National Observatory for Childhood and Adolescence (NOCA) is responsible for coordinating all governmental units, regional and local authorities and CSOs working with and for children. NOCA is also in charge of developing all official child-related documents and policies such as the State's report to the CRC Committee and the National Plan of Actions and Interventions for the Protection of the Rights and Development of Children and Adolescents. According to the Italian Government, the latter is the primary national strategy for childhood and adolescence in compliance with the UN CRC and its Optional Protocols.<sup>167</sup> The current composition of the NOCA includes representatives from relevant ministries,

regional and local bodies, UNICEF Italia and CSOs such as Save the Children Italia.<sup>168</sup> Every two years, the NOCA prepares a report on the situation of children in Italy, the latest covering the period 2012-2015. Besides data on some OCSE-related offences and providing an overview of relevant legal provisions, the report disappointingly does not mention SEC and its extent in the country.<sup>169</sup> The NOCA is supported in its tasks and activities by the National Childhood and Adolescence Documentation and Analysis Centre,<sup>170</sup> which, among its activities, carries out research studies and surveys on different issues relating to children's rights. Concerning SEC, unfortunately, no specific research and/or survey has been conducted by the Centre in the past 10 years. The first National Anti-Trafficking Plan was adopted by the Council of Ministers in 2016 in order to address a long lasting and important gap in the national policies.<sup>171</sup> The Plan explicitly recognises child victims of trafficking in many interventions related to prevention, protection, identification of victims, reception and support. Moreover, the Plan establishes that with regards to the protection and reception of victims of trafficking, adequate protection mechanisms taking into account the needs of children exploited for, sexual purposes and forced marriage, should be developed.<sup>172</sup> Other specific and SEC-related actions include the organisation of training courses for law enforcement, students and professionals on trafficking (including curricula on trafficking of children for sexual exploitation), and the development of projects aimed at raising awareness on responsible and sustainable tourism in order to reduce demand.<sup>173</sup> Reportedly, information related to the actual implementation of the plan exist but are not available to the public.<sup>174</sup>

Although Italy has clear and comprehensive national policies on SEC, the lack of information

163 Government of Italy, Department for Equal Opportunities (2015), "National Plan to Prevent the Sexual Abuse and Exploitation of Children 2015-2017".

164 *Ibid.*

165 *Ibid.*, 53.

166 Information provided by ECPAT Italia, the ECPAT Member in the country.

167 Fifth and sixth periodic report of Italy submitted under article 44 of the Convention on the rights of the child, June 2017, para. 5 and 6.

168 Government of Italy, Minister of Regional Affairs and Autonomies and Minister of Labour and Social Policies (2017), "Ministerial Decree of 24 March 2017".

169 National Observatory for Childhood and Adolescence (2015- published online in 2017), "Relazione sulla condizione dell'infanzia e dell'adolescenza in Italia 2012-2015", [https://www.minori.it/sites/default/files/parte\\_prima.pdf](https://www.minori.it/sites/default/files/parte_prima.pdf); and [https://www.minori.it/sites/default/files/parte\\_seconda.pdf](https://www.minori.it/sites/default/files/parte_seconda.pdf).

170 The Centre has been established by Law 451 of 1997, Article 3.

171 Council of Ministers (2016), "Piano nazionale d'azione contro la tratta e il grave sfruttamento 2016-2018".

172 *Ibid.*, 41.

173 *Ibid.*, 23-24.

174 Information provided by ECPAT Italia, the ECPAT Member in the country.

regarding their implementation and monitoring makes it extremely difficult to assess the effectiveness, uptake and possible limitations of the envisaged interventions and actions.

## PREVENTION MEASURES, AWARENESS-RAISING AND EDUCATION

In order to highlight the importance of prevention in the context of SEC and the need for multi-faceted and multi-sectorial strategies, the National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children contained a section fully dedicated to the different actions needed to prevent SEC in the country. These included awareness-raising (for the general public, through the media and at schools); basic training courses for people working in healthcare, social work, educational, and judicial contexts; and specialised trainings aimed at improving the skills of professionals working with children. A special focus was placed on the implementation of the Lanzarote Convention, especially in reference to the concept of the ‘circle of trust’, and on the prevention of SECTT.<sup>175</sup> The comprehensiveness of the Plan on the topic of SEC prevention, confirms the need for an updated version as well as a dedicated system to monitor its implementation.

Most prevention measures and activities are developed and carried out by the Department for Equal Opportunities. In 2017, the Department launched the project “School as a place of prevention and protection: how to protect children and teenagers from the phenomena of violence, bullying and cyberbullying, sexual abuse and exploitation” in collaboration with the Ministry of University and Scientific Research (MIUR) and the Observatory for the Fight against Paedophilia and Child Pornography.<sup>176</sup> Through laboratories for students, seminars and distance-learning courses for teachers, the project addressed issues related to sexual exploitation and abuse, including the risks connected to self-generated sexual content.

As reported by Italy in its report to the Lanzarote Committee, the project aimed at providing children and adolescents “with information and tools to raise awareness of the impacts of sexual abuse and exploitation; the risks associated with new technologies; and to teach them self-protective behaviours including identifying who they should turn to for help”.<sup>177</sup>

At the end of January 2018, the Department of Equal Opportunities signed a three-year collaboration agreement with the *Istituto degli Innocenti*, one of the oldest Italian institutions dedicated to the protection of children. The agreement aimed at developing and supporting activities and trainings on the prevention of child sexual abuse and exploitation, especially online.<sup>178</sup>

The Italian Authority for Children and Adolescents, chaired by the National Child Ombudsman, is somewhat active in developing and implementing awareness-raising activities on SEC. In November 2016, on the occasion of the European Day on the Protection of Children against Sexual Abuse and Sexual Exploitation, the Authority organised a conference in collaboration with academia.<sup>179</sup> The event, entitled “The fight against sexual exploitation and sexual abuse of minors – Implementation of the Lanzarote Convention in Italy: experience in application and outstanding problems”, had the purpose of bringing together academics, policy-makers, CSOs and young people and providing specialised training for legal professionals.<sup>180</sup>

In relation to OCSE, a number of initiatives are in place to improve online safety and raise awareness on the risks children may encounter online. It is worth mentioning the project “Connected Generations – Italian Safer Internet Centre (SIC)”, co-funded by the European Commission and coordinated by the MIUR in partnership with governmental bodies, NGOs and academic institutions.<sup>181</sup> Among the project’s stated aims are: a campaign through the media raising awareness on the safe use of the Internet; training

175 Government of Italy, Department for Equal Opportunities (2015), “National Plan to Prevent the Sexual Abuse and Exploitation of Children 2015-2017”.

176 Government of Italy, Department of Equal Opportunities (2017), “La scuola come luogo di prevenzione e tutela: un’iniziativa di sensibilizzazione per gli educatori sui fenomeni della violenza, del bullismo e cyberbullismo, dell’abuso e dello sfruttamento sessuale”.

177 Council of Europe (2017), “Lanzarote Convention, Italy, Replies to the thematic questionnaire “The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”, 26 October 2017, 2-3.

178 Istituto degli Innocenti (2018), “Contrasto alla pedofilia, l’Istituto degli Innocenti a fianco del Dipartimento per le Pari Opportunità”, 27 January 2018.

179 Italian Authority for Children and Adolescents (2017), “Report to Parliament 2016”, June 2017, 23.

180 *Ibid.*

181 Generazioni Connesse (n.d.), “Ci presentiamo”.

courses for school children and teachers; and the enhancement of a helpline for children,<sup>182</sup> as well as two online hotlines<sup>183</sup> for reporting CSAM/CSEM.<sup>184</sup>

The Postal and Communications Police also carry out awareness-raising and educational activities focusing on the responsible use of new technologies and online risks,<sup>185</sup> an example being the campaign “*Una vita da social*” (‘a life among social networks’), now in its fifth edition.<sup>186</sup> The campaign aims at raising awareness on the risks connected to social media as well as increasing knowledge on how to safely use the Internet.<sup>187</sup> Representatives of the Postal and Communications Police have met over 1.3 million students, 147,000 parents and 82,500 teachers in 10,750 schools located in 190 Italian cities. Students can then post their comments and impressions of the activities in which they participated via dedicated Facebook and Twitter channels.<sup>188</sup> An element of the project is “*Web in Cattedra*” (‘web on the professor’s desk’). Through this, the Postal and Communications Police provide training to secondary school teachers of online risks like grooming and cyber-bullying and how to protect their pupils.<sup>189</sup> Finally, the National Centre for the Fight against Child Pornography on the Web, set up by law within the Postal and Communication Police Service of the Ministry of Interior<sup>190</sup> collects all reports, including those coming from foreign police, dedicated CSO-run hotlines and all public and private parties involved in the fight against OCSE. The Centre is also in charge of keeping the black list of websites containing CSAM/CSEM (mentioned above) updated.<sup>191</sup>

The work done by local NGOs to prevent SEC is commendable. Notably, since 2012, Save the Children Italia has been active in preventing the

trafficking of children for any kind of exploitative purposes through its project “*Vie d’uscita*” (‘ways out’).<sup>192</sup> In the context of this project, Save the Children Italia and its partners provide presumed trafficked children and children at risk with legal counselling, social and cultural mediation and referral to dedicated and specialised reception and assistance centres.<sup>193</sup> The association *SOS Telefono Azzurro* organises trainings and information sessions for schoolchildren, parents and teachers on various issues related to children’s rights and welfare including the safe use of the Internet and new technologies.<sup>194</sup> In January 2018, the campaign “Stop Sexual Tourism” was launched by a number of local NGOs, including ECPAT Italia, in order to raise awareness on the phenomenon by displaying a poster in all major Italian airports.<sup>195</sup>

## CHILD PROTECTION, ACCESS TO JUSTICE AND RIGHT TO REMEDIES FOR CHILD VICTIMS OF SEXUAL EXPLOITATION

In Italy, many specialised law enforcement agencies and investigative police units deal with SEC manifestations. Besides the above-mentioned Postal and Communications Police that handles cases related to sexual abuse and exploitation online, it is worth mentioning the National Anti-mafia and Counter-Terrorism Directorate (DNA). The DNA coordinates investigations when crimes related to sexual abuse and exploitation are committed by organised criminal networks.<sup>196</sup> Furthermore, since 1996, each territorial police office (i.e. *Questura*) has a specialised Minors Office (part of the Anti-Crime Division), whose purpose is to provide support to children at risk

182 The helpline is Pronto Telefono Azzurro reachable at 1-96-96.

183 The two hotlines are: Stop-It managed by Save the Children Italia and Azzurro managed by SOS Telefono Azzurro.

184 Generazioni Connesse (n.d.), “Ci presentiamo”.

185 Postal and Communications Police (2018), “Report 2017”, accessed 19 February 2018.

186 State’s Police (2017), “Al via la quinta edizione di ‘Una vita da social’”.

187 *Ibid.*

188 *Ibid.*

189 Postal and Communications Police (n.d.), “Progetti”.

190 Government of Italy, Law No.269/998, Article 14 bis introduced by Law 38/2006.

191 State Police (2013), “Centro nazionale per il contrasto alla pedopornografia sulla rete”.

192 Save the Children Italia (n.d.), “Vie d’uscita”.

193 *Ibid.*

194 SOS Telefono Azzurro (n.d.), “Corsi di formazione”.

195 Mete (n.d.), “Progetto internazionale a tutela dei diritti minorili nel mondo”.

196 Council of Europe (2017), “Lanzarote Convention, Italy, Replies to the thematic questionnaire “The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”.

197 Article 416 of the Italian Criminal Code specifically criminalises and punishes those who associate with the purpose of committing crimes related to the sexual abuse and exploitation of children.

and their families.<sup>198</sup> Minors Offices are composed of personnel trained to deal with child offenders and victims of crimes, especially in relation to: child maltreatment; abandonment of minors; exploitation in prostitution and for CSAM/CSEM; child labour, sexual abuse; bullying and use or dealing of narcotic substances.<sup>199</sup>

Concerning the judicial system, the criminal courts of the main Italian cities (e.g. Rome and Milan) have specialised sections solely dealing with cases involving vulnerable victims (women and minors) of, among others, sexual offences and exploitation in prostitution.<sup>200</sup> Unfortunately, the fact that these sections are not available all over the country means that the possibility for all child victims to see their offenders tried by a judge with particular and specialised skills and competences is reduced.

### National complaint mechanisms

Although according to the Italian Criminal Code, any victim, including children, is entitled to file a complaint for SEC-related offences,<sup>201</sup> the Public Prosecutors have the duty to initiate investigations *ex officio* on the basis of information obtained by any sources (e.g. a police report). Public officials and personnel of public services have the mandatory duty to immediately report any crime they are aware of while on duty.<sup>202</sup> Private citizens can also report a crime to the judicial authority, but it is not mandatory to do so, except for specific offences,<sup>203</sup> among which SEC-related offences are not included.

Article 609-decies of the Criminal Code establishes that for SEC-related crimes, the Public Prosecutor has to inform and involve the Juvenile Court at any

stage of the proceedings,<sup>204</sup> in order to guarantee protection and assistance to the child victim.

In Italy, the prescription period (also known as 'statute of limitations') for the criminal court is the highest imprisonment penalty provided by law for each specific offence<sup>205</sup> (e.g. it means that if the penalty for exploiting a child in prostitution is 20 years, the prosecutor can take actions during a period of 20 years, starting on the day the crime was committed). However, the Criminal Code was recently amended and it now states that the prescription period for SEC-offences starts when the child turns 18, unless the criminal action has already been filed.<sup>206</sup> Unfortunately, the prescription period still runs when the case is being heard. This, along with long criminal trials and delays in reaching a judgement -which are common in the Italian justice system-, can hinder child victims' access to justice in the country.<sup>207</sup>

Any person, including children, can also present a complaint for violations of children's rights to the Regional Ombudspersons for Children and Adolescents, which are present in 16 regions and autonomous provinces out of 21.<sup>208</sup> For those regions where a Regional Ombudsperson is not available, complaints can be made to the National Ombudsperson.<sup>209</sup> Data on complaints made to the Ombudspersons have not been collected and/or analysed yet.<sup>210</sup>

Italian children also can send individual complaints to the European Court of Human Rights, claiming to be the victim of a violation of the rights set forth in the European Convention on Human Rights.<sup>211</sup> In this case, complaints are admissible only if all domestic remedies have been exhausted.<sup>212</sup>

198 Polizia di Stato (2013), "Ufficio Minori".

199 *Ibid.*

200 See e.g. Tribunale Penale di Roma (n.d.), "Prima Sezione Penale"; Tribunale Penale di Milano (n.d.), "Sezione Quinta Penale".

201 Government of Italy, "Criminal Code", Article 120.

202 Government of Italy, "Code of Criminal Procedure", Article 331.

203 *Ibid.*, Article 333. Reporting is currently mandatory for: 1) crimes against the State for which the life penalty is prescribed; 2) receiving in good faith counterfeit money; 3) receiving goods and/or money of illicit origin; 4) some conducts related to possession or discovery of explosive materials; 4) sport frauds; 5) kidnap for extortion. Policarpio, Isabella (2019), "Denuncia obbligatoria: I casi in cui denunciare non è una scelta", 11 Gennaio 2019.

204 Government of Italy, "Criminal Code", Article 609-decies.

205 *Ibid.*, Article 157.

206 *Ibid.*, Article 158.

207 Child Rights International Network – CRIN (2015), "Access to Justice for Children: Italy".

208 Government of Italy (2011), "Istituzione dell'Autorita' Garante per l'Infanzia e l'Adolescenza", Article 6; Garante Infanzia (n.d.), "Garanti Regionali – Elenco".

209 Garante Infanzia (n.d.), "Segnalazioni".

210 Information provided by ECPAT Italia, the ECPAT Member in the country.

211 European Convention on Human Rights, Article 34.

212 *Ibid.*, Article 35.

Lastly, Italy has ratified the Optional Protocol to the Convention on the Rights of the Child on a communication procedure, allowing children to bring complaints for violations of their rights to the CRC Committee.<sup>213</sup>

## Child-sensitive justice

The National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children defined two objectives aimed at protecting children in the justice system: implementing Article 609-decies of the Criminal Code by identifying CSOs that can provide adequate assistance and support to child victims, and drafting guidelines defining the best practices for court hearings involving child victims.<sup>214</sup> However, these guidelines have not been developed yet.<sup>215</sup>

According to Article 609-decies of the Criminal Code “the emotional and psychological assistance of the offended minor is ensured in every stage and grade of proceedings by the presence of parents or other suitable persons designated by the minor, as well as groups, foundations, associations or non-governmental organisations with proven experience in the field of assistance and support for the victims of [SEC-related offences] listed in a special list of legal entities legitimated for this purpose, with the consent of the minor, and admitted by the judicial proceeding. In any case, the minor is provided with the assistance of the Juvenile Justice Service and the services provided by local authorities.”

The Code of Criminal Procedure also provides special measures. Article 190 bis establishes that for SEC-related offences, witnesses under 16 years cannot be placed under examination if they have already made statements during the preliminary

investigations or in the pre-trial phase of the trial, when cross-examined with the person against whom the statements will be used.<sup>216</sup> According to Article 351, 362 and 391bis, the assistance of an expert in child psychology is required when a minor is being interviewed by the police, the prosecutor or the counsel of the defence in relation to an offence related to sexual abuse and exploitation.

Article 392 provides a special procedure (*‘incidente probatorio’*) when gathering the full testimony of minors who are victims or witnesses of sexual exploitation or abuse before the public trial phase. The purpose of this provision is to prevent the child victim or witness from being forced to give evidence during trial, which can take place a long time after the abuse and/or exploitation and thus retraumatise the victim. This is in order to allow the child victim to promptly commence a psychological rehabilitation process. In this case, the examination of the minor must be carried out by means and procedures (e.g. at the child’s domicile), which take into account the child’s needs and aim at preventing re-traumatisation.<sup>217</sup> Other provisions stipulate special safeguards for both child victims and witnesses such as conducting *in camera* hearings when the victim of a sexual offence is a child,<sup>218</sup> providing the Court with assistance from a family member or an expert in child psychology when examining a child victim,<sup>219</sup> and ensuring that the examination of child victims of sexual abuse and exploitation takes place in front of one-way glass.<sup>220</sup> Lastly, legal aid is paid by the State for all criminal proceedings related to SEC offences.<sup>221</sup>

In light of the above, the Italian legislation could be considered in compliance with the international standards in relation to child-sensitive justice. However, no recent statistic/information is available regarding the actual application of the above-mentioned provisions.

213 OPCP, Article 5.

214 Government of Italy, Department for Equal Opportunities (2015), “National Plan to Prevent the Sexual Abuse and Exploitation of Children 2015-2017”, 33.

215 Information provided by ECPAT Italia, the ECPAT Member in the country.

216 Government of Italy, “Code of Criminal Procedure”, Article 191 bis and Article 1 bis.

217 *Ibid.*, Article 398 and Article 5bis.

218 *Ibid.*, Article 472 and Articles 3bis and 4.

219 *Ibid.*, Article 498. 4.

220 *Ibid.*, Article 498, 4ter.

221 D.P.R. 115/2002, “Testo Unico in Materia di spese di giustizia”, Article 76. 4 ter.

## Access to recovery and reintegration

The National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children stipulated protecting children through support and psychotherapeutic recovery programmes for child victims of sexual crimes.<sup>222</sup> One of the envisaged activities was the drafting of a set of guidelines that define the essential levels of protection and support for child victims of sexual abuse and exploitation.<sup>223</sup> The Guidelines were finalised and presented, during the plenary assembly of the Observatory on Paedophilia and Child Pornography in September 2017, by the Department for Equal Opportunities, in collaboration with the Observatory and the *Istituto degli Innocenti*.<sup>224</sup> However, the guidelines have yet to be implemented.

Regarding victims of slavery and trafficking, a reference should be made to article 18 of the legislative decree on immigration (the main legislation on the topic) which establishes a unified programme of assistance and social integration for victims of these crimes, which guarantees for a temporary period of time, adequate living conditions (e.g. accommodation and food) and health care.<sup>225</sup> Once the abusive or exploitative situation is verified, the competent public authority issues a special residence permit to give the victim the possibility to participate in a programme for support and social integration.<sup>226</sup>

In December 2018, the Department for Equal Opportunities published a tender notice of 24 million euros for organisations interested in implementing projects in the framework of the unified programme of support for victims of slavery and trafficking.<sup>227</sup>

## Access to compensation

Child victims of SEC can claim compensation in Italy through three different channels: civil courts, criminal courts and state-managed compensation funds.

In order to avoid having to file a separate civil lawsuit to receive compensation, child victims can also become a civil party to the criminal proceedings.<sup>228</sup>

A specific state-managed fund is available in Italy for victims of trafficking, including children.<sup>229</sup> However, the possibility of access to compensation is limited to cases where the offender has been convicted and has not paid damages to the victim.<sup>230</sup> Moreover, the compensation amount for each victim (established by the law setting up the Fund) is very low (1,500 euros), and therefore inadequate to restore the moral, physical and psychological damages suffered.<sup>231</sup> Additionally, compensation is granted only if enough financial resources are allocated to the fund each year; otherwise, payment is delayed to the next year.<sup>232</sup>

The Fund, which is not accessible to victims of other SEC manifestations, should be better structured and budgeted in order to ensure child victims' access to compensation.

222 Government of Italy, Department for Equal Opportunities (2015), "National Plan to Prevent the Sexual Abuse and Exploitation of Children 2015-2017", 33.

223 *Ibid.*

224 Istituto degli Innocenti (2017), "Osservatorio anti pedofilia, presentate le Linee Guida per l'assistenza delle vittime".

225 Government of Italy, "Legislative Decree 286 of 1998", Article 18.3bis

226 *Ibid.*, Article 18.1.

227 Dipartimento per le Pari Opportunita' (2018), "Bando per progetti di assistenza a favore delle vittime della tratta".

228 Government of Italy, "Code of Criminal Procedure", Article 74.

229 Government of Italy, "Law 228 of 2003", Article 12.2bis.

230 *Ibid.*

231 *Ibid.*

232 *Ibid.*

## Child, Victims and Survivor Participation

The 4<sup>th</sup> National Plan of Actions and Interventions for the Protection of the Rights and the Development of Children and Adolescents includes in its interventions the need to ensure children participation at all different territorial levels, especially in reference to policies and plans which directly affect them.<sup>233</sup> According to the 2017 report submitted by the Italian Government to the CRC, “the 4<sup>th</sup> PAI has adopted two tools in order to allow children’s participation: a consultation held in 60 schools on the national territory, and the publication of the 4<sup>th</sup> PAI in an ETR (Easy To Read) version”.<sup>234</sup>

Children’s participation is also guaranteed at the central level through the National Authority for Childhood and Adolescence. Its priorities include listening directly to children through meetings and events at the local level and promoting participation and listening through its website [www.garanteinfanzia.org](http://www.garanteinfanzia.org).<sup>235</sup>

Councils of adolescents and young people (between 15 and 25) also exist at the local level

and allow young people to take part in decision-making processes.<sup>236</sup> The main purpose of these councils is to promote the participation of children and young people in the local political scene and develop projects for them in partnership with other councils located in different regions or municipalities.<sup>237</sup> Unfortunately, a list of all currently active councils is not available, due to the fact that some operate at the regional level and some in smaller municipalities.<sup>238</sup>

Besides the prevention initiatives mentioned above involving children, there are no specific mechanisms to ensure children participation, including child victims and survivors, in SEC-related policies and plans.<sup>239</sup> Moreover, according to the section of the National Plan for the Prevention and Fight against Abuse and Sexual Exploitation of Children related to the consultative process preceding its redaction, children’s inputs were not sought in any way.<sup>240</sup>

233 Government of Italy, Department for Equal Opportunities, “Issues”.

234 Fifth and sixth periodic report of Italy submitted under article 44 of the Convention on the rights of the child, June 2017, 6.

235 *Ibid.*, 10.

236 *Ibid.*, 18.

237 See e.g. Regione Lazio (2008), “Regolamento Istitutivo del Consiglio dei Giovani”.

238 Information provided from ECPAT Italia, the ECPAT member in the country.

239 *Ibid.*

240 Government of Italy, Department for Equal Opportunities (2015), “National Plan to Prevent the Sexual Abuse and Exploitation of Children 2015-2017”, 3-4.

## Recommendations for Action

### International and regional legislation, commitments and coordination to ending SEC

- Strengthen existing international police and judicial cooperation through multilateral, regional and bilateral arrangements to improve prevention, investigation, prosecution and punishment of SEC and develop mechanisms to coordinate the implementation of such arrangements.

### National response to SEC's manifestations

- Amend Article 600-bis of the Criminal Code in order to ensure the same level of protection from exploitation in prostitution to children below 14 years of age, although protected by Article 609-ter, which criminalises aggravated sexual violence.
- With regards to OCSE-related crimes, explicitly criminalise the live-streaming of child sexual abuse as well as knowingly obtaining access to CSAM through ICTs.
- Amend the Criminal Code in order to provide the same penalties for both CSAM depicting real children and materials generated through the use of graphic techniques.
- Amend article 609-undecies of the Criminal Code in order to extend protection to children who are 16 or above.

- Specify in the legislation's definition of child trafficking that the child's consent to his/her own exploitation is irrelevant.

- Include a provision explicitly criminalising the sale of children for all sexual purposes.

- Amend legislation related to the legal age of marriage in order to provide more clarity on when the judge can authorise children aged 16 to marry.

- Remove the double criminality requirement for extradition.

- The Department for Equal Opportunities should release its latest reports on the coordination activities implemented to prevent and protect children from SEC.

- The Observatory for the Fight against Paedophilia and Child Pornography should urgently compile and publish a report on the data and information included in its database in order to effectively monitor the efficacy of current policies.

- Draft and implement a new National Plan for the Prevention and Fight against Abuse and sexual exploitation of Children. The Government should allocate ex-ante financial resources for the implementation of activities included in the Plan in order to avoid delays and poor outcomes and provide concrete information on the implementation of the Plan to assess its effectiveness.

## Access to justice and right to remedies for child victims of sexual exploitation

- Establish specialised sections dealing with SEC-related cases in all criminal courts.
- Amend legislation related to prescription periods for SEC-related crimes. Considering the length of criminal proceedings, the prescription period should be paused while the case is being heard.
- Set up the special fund mentioned in Law 269 of 1998 in order to guarantee the implementation of the activities related to the recovery and reintegration of child victims.
- Establish a state-managed fund to provide compensation to victims of all forms of SEC.

## Child, Victim and Survivor Participation

- Consult children during the drafting of all national plans directly affecting them.
- Design strategies to involve child victims and survivors in specific programmes related to SEC in a safe and empowering manner that does not exacerbate their victimisation.

## Research needs and agenda

- Conduct a comprehensive research study on boys exploited in prostitution in order to shed light on the scale, scope and context of the phenomenon.
- Conduct research on the links between SEC, migration and trafficking in order to inform national policies and plans and tackle the phenomenon.
- Conduct a survey on CEFM in order to understand the true extent of the phenomenon, beyond single ethnic minorities.

## Acronyms

<b>CEFM</b>	Child, early and forced marriage
<b>CRC</b>	Convention on the Rights of the Child/Committee on the Rights of the Child
<b>CSAM</b>	Child sexual abuse material
<b>CSEM</b>	Child sexual exploitation material
<b>CSO</b>	Civil Society Organization
<b>DNA</b>	Anti-mafia and Counter-terrorism Directorate
<b>ETR</b>	Easy-to-read
<b>EU</b>	European Union
<b>ICT</b>	Information and Communication Technology
<b>ISP</b>	Internet Service Provider
<b>Istat</b>	Italian National Institute for Statistics
<b>MIUR</b>	Ministry of University and Scientific Research
<b>MNR</b>	Model National Response
<b>NOCA</b>	National Observatory for Childhood and Adolescence
<b>OCSE</b>	Online child sexual exploitation
<b>ONLUS</b>	Non-profit organization for social utility
<b>SEC</b>	Sexual exploitation of children
<b>SECTT</b>	Sexual exploitation of children in travel and tourism
<b>SIC</b>	Italian Safer Internet Center



328/1 Phaya Thai Road, Ratchathewi, Bangkok, 10400 THAILAND  
Tel: +662 215 3388 | Email: [info@ecpat.org](mailto:info@ecpat.org)  
Website: [www.ecpat.org](http://www.ecpat.org)