

Policy & Legal review for children in alternative care & unaccompanied and separated children from Ukraine arriving in: ITALY

Contributors: Ministry of Labour and Social Policies - Directorate General for Migration and Integration Policy; UNICEF Italy; SOS Il Telefono Azzurro Onlus, Eurochild

1. What are the laws and/or policies covering care arrangements for children temporarily or permanently deprived of family care (with translation into English if available)?

- Law No. 184/1983 of 4 May 1983, Right of a minor to family (Diritto del minore ad una famiglia); IT: http://www.camera.it/_bicamerali/leg14/infanzia/leggi/legge184%20del%201983.htm
- Law No. 149/2001, updating the law 184/1983, "The right of the child to a family", in accordance with the rights sanctioned by the Convention on the Rights of the Child, identifies the prerequisites for the implementation of the right of each child to a family, and assigns to the State, Regions and Local Authorities the task of supporting families in difficulty, in order to prevent abandonment and to allow the child to be raised in his or her own family. IT: <https://web.camera.it/parlam/leggi/01149l.htm>
- Amendments to Law no. 184 of May 4, 1983, on the right to affective continuity for children in foster care (sul diritto alla continuità affettiva dei bambini e delle bambine in affido familiare). IT: <https://www.gazzettaufficiale.it/eli/id/2015/10/29/15G00187/sg>

The Civil Protection with the Special Commissioner appointed for this emergency in Ukraine has set up a *Plan for Unaccompanied minors*.

The Plan states that from the first contacts between Ukrainian institutions and associations promoting the transfers, the Department of Civil Protection, the Department of Civil Liberties and Immigration and the Department of Public Security must be informed.

This must take place at least ten days before the actual transfer, the association promoting the transfer must provide the competent authorities, also at local level, with any useful information, including the presence of any additional reasons for vulnerability and special needs, the presence of accompanying persons, any measures of protection and legal representation adopted by the Ukrainian authorities in addition to the reception measures arranged.

Source: *Emergenza profughi ucraini, aggiornato il Piano minori stranieri non accompagnati* / Ministero dell'Interno: <https://www.interno.gov.it/it/notizie/emergenza-profughi-ucraini-aggiornato-piano-minori-stranieri-non-accompagnati>

Additional details:

According to current legislation, the minor who is temporarily deprived of family care can be entrusted to a family, preferably with minor children, or to a single person, able to ensure maintenance, education, instruction, and the emotional relationships that he needs in priority with respect to placement in a community or other reception facility. In Italy, out-of-family placements are regulated by [Law 184/1983](#) as amended [by L 173/2015](#).

There are 3 main placements for children in need of temporary out-of-home care: children homes (small residential services with professional caregivers, mostly social workers and social pedagogues); non-professional foster families (families or single people who care for a child in their home, without direct payment from the welfare system but with some income support); and professional foster families (families with one or both parents paid as professional caregivers, usually employed by a Voluntary Organisation).

In all these settings, children can be placed with a full-time, day-time or part-time attendance, depending on their birth families' problems. Law 184/1983 as amended provides an order of preference to follow when placing a child. In first place is "a family, preferably with children"; in second place there is a single person; and lastly, there are children homes. In practice, the placement possibilities are very different & there are also differences between various regions depending on local regulations.

These out-of-home placements, either in foster care or in residential services, can be made with the agreement of the parents or disposed by the Juvenile Court, who decides the duration of the placement. In the case of voluntary placement, the family's agreement is formalised and out-of-home placement is arranged by the local authority, which also has the task of implementing the project. The maximum duration of a voluntary placement is two years, and the intervention may be extended only by the Juvenile Court's decision.

Daytime or semi-residential custody is when the minor spends a part of the day with the foster parents, and is part-time when they spend only a short defined period with the foster carers (a few days of the week, a certain period of time a year).

Moreover, during this situation, the Civil Protection with the Special Commissioner appointed for this emergency in Ukraine has set up a *Plan for Unaccompanied Minors*. The Plan excludes consensual fostering because the procedure of "direct family fostering" by the social services is not applicable to unaccompanied minors, since there is no recognised guardian. But the Plan speaks of reception ensured by the Municipality, possibly also in the System of accommodation and integration (Italian asylum accommodation system, or SAI), for those under 14 and of initial reception in highly specialised governmental structures for 30 days and then in the SAI for minors over 14.

UNICEF guidance, "*Linee guida per la protezione dei bambini sfollati e rifugiati*" (Guidelines for the Protection of Displaced Children and Refugees <https://www.unicef.it/emergenze/ucraina/linee-guida-per-la-protezione-dei-bambini-sfollati-e-rifugiati/>)

In specific circumstances, evacuations of institutions providing care are necessary to bring children to safety. Those legally responsible for children in institutions in Ukraine must ensure that such evacuations are carried out in accordance with the provisions of national authorities.

The Government of Ukraine has issued clear directives to all childcare facilities, including orphanages and boarding schools, on how to organise necessary evacuations. Movements should be reported to the appropriate authorities in Ukraine and neighbouring countries immediately after crossing the border, and, to the extent possible, children should be evacuated with their identification documents and personal files. To provide maximum protection, UNICEF urges all those legally responsible for institutionalised children to:

- Comply with the provisions of national authorities for the evacuation of care facilities, in particular by implementing Procedure 166, which contains specific requirements for displacement, including the number of adults who must accompany groups of children and on how to protect children with disabilities.

Displacements should be reported to the appropriate authorities in Ukraine and neighboring countries immediately after crossing the border and, to the extent possible, children should be evacuated with their identification documents and personal files.

2. What are the laws and/or policies or bi-lateral agreements covering care arrangements for unaccompanied and separated children (UASC) from foreign countries (with translation into English if available)?

- Italian government's Plan for Unaccompanied Minors (https://www.interno.gov.it/sites/default/files/2022-04/piano_minori_stranieri_non_accompagnati_13042022.pdf)

Set up by the Special Commissioner for the emergency in Italy, this Plan has been updated with further references that make up the framework for the protection of minors, with particular regard to international conventions on cooperation in the field of parental responsibility, national regulations on family foster care and the Prime Minister's Decree on temporary protection currently being published. The methods of implementing the Child Information System have been specified in greater detail, in order to facilitate the census carried out through that system. It also discusses guardianship, whereby in the absence of voluntary guardians, an institutional guardian is appointed and exercises legal guardianship powers when parental responsibility is lost.

- The Addendum to the Plan is here: https://www.interno.gov.it/sites/default/files/2022-04/addendum_13042022.pdf

The Plan sets out the definition for unaccompanied children arriving in Italy, as: *"Any minor who is in Italy without at least one parent, falls within the definition of unaccompanied foreign minor and must be reported to the Police Headquarters. "Unaccompanied" is in fact considered any minor*

"without assistance and representation by parents or other adults legally responsible for him/her according to the laws in force in the Italian legal system". In other words, all children and young people who arrived in Italy and are living with their grandmother, aunt, but also the operator or the director of the institution that welcomed them in Ukraine and who cannot prove to be legally responsible for them under Italian law are also explicitly considered unaccompanied: adults who - the Plan admits - "take care of their assistance" but who "are not formally recognized as their guardians under Italian law". Source: <http://www.vita.it/it/article/2022/04/04/piano-minori-sono-tutti-non-accompagnati/162388/>

- The system of reception and assistance to the Ukrainian population - of the Department of Civil Protection is set out here: <https://emergenze.protezionecivile.gov.it/en/pagina-base/system-reception-and-assistance-ukrainian-population>

Laws and/or policies or bi-lateral agreements cover care arrangements for unaccompanied and separated children (UASC) from foreign countries:

- The Reception Decree (D.Lgs 142/2015: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2015-08-18;142>), as amended by L 47/2017 (<https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-07;47!vig>) provides that affective and psychological assistance is guaranteed to children in every state of the procedure, through the presence of suitable persons indicated by the child and authorised by the relevant authorities. It also guarantees that the unaccompanied child has the right to participate, through a legal representative, in all judicial and administrative proceedings concerning him or her and to be heard on the merits of his or her case. To this end, the law also guarantees the presence of a cultural mediator.
- L. Decree 142/2015, as amended by LD 220/2017 <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legislativo:2017;220>, which entered into force on 31 January 2018, provides that the public security authority must give immediate notice of the presence of an unaccompanied child to the Public Prosecutor at the Juvenile Court and to the Juvenile Court (Tribunale per i minorenni) for the appointment of a guardian. The Juvenile Court is the sole competent authority following the 2017 reform.
- Where a guardian has not yet been appointed, the manager of the reception centre is allowed to support the child for the lodging of the asylum application at the Questura.

Duties and qualifications of the guardian:

- Guardian has the responsibility to assist the unaccompanied child during the entire asylum procedure, and even afterwards, in case the child receives a negative decision on the claim. The guardian also has a relevant role during the personal interview before the Territorial Commission, who cannot start the interview without his or her presence.

- Each guardian can be appointed for one child or for a maximum of three children. To overcome existing deficiencies and lack of professionalism among guardians, L 47/2017 has established the concept of voluntary guardians. A register of such guardians has to be kept in every Juvenile Court.
- The Regional Children’s Ombudsman is responsible for selecting and training guardians. The National Children’s Ombudsman has established specific guidelines on the basis of which calls for selection of guardians have already been issued in each region. The law assigns the responsibility to monitor the state of implementation of the guardianship provisions to the Children’s Ombudsman (Italian Independent Authority for children and adolescents – Agia).

Relevant laws for unaccompanied and separated children:

- Civil Code (Codice civile) – Guardianship: Arts. 343, 348, 357, 371; It:
<https://www.altalex.com/documents/codici-altalex/2015/01/02/codice-civile>
- Presidential Decree No. 616 of 24 July 1977 (Decreto Presidente Repubblica 24 luglio 1977, n. 616) – Guardianship: Art. 25 (1); It:
http://www.edscuola.it/archivio/norme/decreti/dpr616_77.html
- Law No. 184/1983 of 4 May 1983, Right of a minor to family (Diritto del minore ad una famiglia) – Guardianship: Arts. 2, 3 (2); It:
<http://www.camera.it/bicamerale/leg14/infanzia/leggi/legge184%20del%201983.htm>
- Law Decree No. 286 of 25 July 1998, Consolidated text of provisions governing immigration and the status of foreigners (Decreto Legislativo 25 luglio 1998, n. 286, Testo unico delle disposizioni concernenti la disciplina dell’immigrazione e norme sulla condizione dello straniero) – Guardianship: Art. 18; It:
<http://www.camera.it/bicamerale/leg14/infanzia/leggi/legge184%20del%201983.htm>
- Legislative Decree No. 24 of 4 March 2014, implementing the Directive 2011/36/EU (Art. 4, Decreto Legislativo 4 marzo 2014, n. 24, Attuazione della direttiva 2011/36/UE, relativa alla prevenzione e alla repressione della tratta di esseri umani e alla protezione delle vittime, che sostituisce la decisione quadro 2002/629/GAI) – Guardianship: Art. 4; It:
<http://www.camera.it/parlam/leggi/deleghe/98286dl.htm>
- Law Decree No. 142 of 18 August 2015, implementing the Directive 2013/32/EU and 2013/33/EU (Decreto Legislativo 18 agosto 2015, n. 142, Attuazione della direttiva 2013/33/UE recante norme relative all’accoglienza dei richiedenti protezione internazionale,

nonché' della direttiva 2013/32/UE, recante procedure comuni ai fini del riconoscimento e della revoca dello status di protezione internazionale) – Guardianship: Art. 19; It:

<https://www.gazzettaufficiale.it/eli/id/2015/09/15/15G00158/sg>

- Law No. 47 of 7 April 2017 on dispositions for the protection of unaccompanied migrant children (Legge 7 aprile 2017, n. 47, Disposizioni in materia di misure di protezione dei minori stranieri non accompagnati), It:

<https://www.gazzettaufficiale.it/eli/id/2017/04/21/17G00062/sg>

3.

- a. What is the legal status of unaccompanied and separated children (UASC) [from Ukraine] in this country?
- b. Does this status guarantee that a child will be able to return to Ukraine once the situation normalises? Or if there is no such “guarantee”/clause please also indicate.
- c. Is there a difference in how the legal system treats the child classified as unaccompanied vs. separated?
- d. Does this status allow the adoption of the Ukrainian child who has entered this country without the consent or participation of parents and/or representatives of Ukrainian relevant state parties?

a.

Following the Council decision of 4 March 2022, the Temporary Protection Directive applies in all EU Member States including Italy. Italy must enact legislative measures to enable the activation of temporary protection at the national level and ensure immediate support to Ukrainian civilians.

Pending the implementing decree, following categories of people from Ukraine can already apply for a residence permit for temporary protection:

- Ukrainian citizens and their family members residing in Ukraine before February 24, 2022
- Stateless persons and citizens of third countries other than Ukraine and their family members who benefited from international protection and equivalent national protection in Ukraine before February 24, 2022
- Displaced from Ukraine as of February 24, 2022. The upcoming implementing decree could also include other categories.

Only after the implementing decree, the police will be able to complete the examination of the application by printing and issuing the residence permit. This will have an electronic format and will be valid no later than 4 March 2023. The Police will verify if the persons accompanying minors have

parental authority, and, if there are no certain documents, they will inform the Juvenile Court and will contact the Ukrainian consular authorities.

Minors accompanied by adults who do not exercise parental authority (e.g. other relatives, acquaintances, operators or private social organisations etc.) will be considered unaccompanied foreign minors and the procedures provided for by law will be activated, with reporting to the Juvenile Court for the appointment of the guardian.

Concerning children with stateless status:

The Decree of the President of the Council of Ministers regarding the implementation of the TPD was signed and adopted on 28 March 2022. The decree confirms that temporary protection applies to UA citizens and third-country nationals and stateless people who held international protection or an equivalent national protection in Ukraine, and fled before 24 February 2022. It also applies to third-country national or stateless people who held permanent residence permits in Ukraine and are unable to return to their country of origin. The protection/permit can be requested at every “Questura” and will allow the beneficiary to access the national health system, the labour market and education. Those who already have applied for international protection in Italy and have pending cases can still apply however those who have already been recognised with international protection cannot access the temporary protection.

b.

According to current legislation (L. 47/2017 art 8: <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:legge:2017-04-7;47>), UASC can be repatriated through the assisted repatriation measure, aimed at guaranteeing the minor's right to family unity and adopting the consequent protection measures. The measure can be adopted only if, following a specific investigation (so-called family investigation), also carried out in the country of origin of the minor or in third countries, it is considered that the repatriation is appropriate in the interest of the minor. To carry out family inquiries in the countries of origin, the Ministry of Labour and Social Policies (MoLSP) has activated the International Organization for Migration (IOM). Assisted repatriation is carried out for UASC until they are returned to their family or to the responsible authorities of the country of origin.

c.

The term ‘Separated child’ is not featured in the current EU asylum acquis (Common European Asylum System - CEAS). In EU asylum acquis, separated children fall under the unaccompanied children category. Italy has transposed the CEAS into national law ([see Legislative Decree 142/2015 - https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2015-09-15&atto.codiceRedazionale=15G00158&atto.articolo.numero=0&atto.articolo.sottoArticolo=1&att](https://www.normattiva.it/atto/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2015-09-15&atto.codiceRedazionale=15G00158&atto.articolo.numero=0&atto.articolo.sottoArticolo=1&att)

[o.articolo.sottoArticolo1=10&qId=ebcd296e-4057-4cdc-8a1a-351c1a506766&tabID=0.6408735000981616&title=lbl.dettaglioAtto](https://www.governo.it/portal/page/portal/leggi/legge/legge-10-2017)) and currently no difference is envisaged in the legal framework as concerns unaccompanied vs separated.

Any minor who is in Italy without at least one parent, falls within the definition of unaccompanied foreign minor and must be reported to the Police Headquarters: this is the orientation of the Juvenile Courts following the publication of the "Plan for unaccompanied foreign minors" developed by the Ministry of the Interior for the management of such a delicate dossier, in terms of numbers and subject matter, as that of minors arrived from Ukraine. "Unaccompanied" is in fact considered to be any minor "lacking the assistance and representation of parents or other adults legally responsible for him/her according to the laws in force in the Italian legal system". In other words, all children and young people who arrived in Italy and are living with their grandmother, aunt, but also the operator or the director of the institution that received them in Ukraine and who cannot prove to be legally responsible for them under Italian law are also explicitly considered unaccompanied: adults who - the Plan admits - "take care of their assistance" but who "are not formally recognised as their guardians under Italian law".

d.

In general, intercountry adoptions in Italy are dealt with by a special Commission (CAI), established at the Presidency of the Council of Ministers. These are regulated by the Hague Convention No 33 of 29 May 1993. The requirements for the adoptive children are the following: Orphans or children without parental care (Art. 209 of the Family Code); Children for whom the parents have given their consent to adoption (Article 217 of the Family Code): minors who have reached the age of five (Article 283 of the Family Code); enrolled for at least one year in the register kept by the DPAM (art. 283 of the Family Code).

Legal System in Italy around adoptions:

Juvenile Courts are key actors guiding this process being them one of the key actors in the adoption procedure (<https://www.commissioneadozioni.it/for-an-adoptive-family/the-path-of-adoption/the-adoption-procedure/>). The following tasks are devolved on the juvenile courts:

- Receiving and registering the “declaration of availability” of couples aspiring to international adoption;
- Forwarding this declaration within 15 days of receipt to the area social services;
- Once the report from the services is received, assessing it and if appropriate providing for further investigation;
- Calling aspirants to adoption to a hearing;

- Declaring by decree – within two months of receipt of the report from the social services – the presence or absence of the requirements on couples requesting adoption;
- Forwarding the decree to the Commission for Intercountry Adoption.

According to the *Ukraine Crisis - UNHCR and UNICEF Recommendations for the Protection of Children and Girls on the Run*, it is stressed that an adoption could not be done during an emergency; the adoption procedure is complex, for this reason the procedure must be very accurate. <https://www.datocms-assets.com/30196/1647270370-crisi-ucraina-advocacy-points-child-protection-140322-fin.pdf>

4.

- a. What is the legal status (especially the length of the status, benefits and restrictions) of the Ukrainian guardian accompanying a Ukrainian separated child arriving in this country (for example a member of staff from the evacuated institutions which has been appointed by the Ukrainian authorities as a guardian for a group of children during evacuation of an institution)?
- b. What safeguarding measures are in place to check and protect the best interests of the child if the child has a guardian from Ukraine (i.e., verifying who the guardian is, approve the guardian status in relation to the child, provide support and monitoring, etc.)?

a.

The carers that accompany children arriving in Italy from Ukraine from Ukrainian institutions or family homes are often the appointed guardian by the Ukrainian administrative authority. However, an important difference in their status with those appointed in Italy is that in Ukraine this appointment is made by an administrative authority, in Italy by a judicial authority.

Border officials are issuing temporary custody documents to bus drivers for swift family reunification purposes.

Clarifications on procedures and methodologies are currently under definition in the framework of Table for Ukrainian UASC chaired by the delegated commissioner for Ukrainian UASC.

Currently, in Italy, minors who lived in institutions in Ukraine, even if they arrive in Italy with their guardians according to Ukrainian law, are considered UASC.

The Hague Convention of 19 October 1996, has been ratified by Italy, but currently there is no central authority dealing with the 1996 Hague Convention and consequently no directive has been

issued on how to behave in these cases. Therefore, each juvenile court has decided on its own producing very fragmented practices. Many Italian Juvenile Courts did not recognise the protections regularly issued by the Ukrainian authorities to the heads of institutions and they entrusted minors to other Italian guardians. For arriving children from Ukraine who have Ukrainian appointed guardians, juvenile courts are nominating 'protutore' (protutor) to provide support in the interaction of the Ukrainian guardian with Italian social protection authorities.

Given that the greatest part of Italian Juvenile courts are de facto considering all minors as UASC, there was an urgent appeal by the Ukrainian Central Authority to the Italian Ministry of Justice to ensure compliance with The Hague Convention for the reception in Italy of minors from orphanages. Currently this issue is under inter- ministerial discussion at the federal level.

b.

Safeguarding measures can vary all-over the country. In general terms Italian authorities have the mandate to verify who the guardian is, approve the guardian status in relation to the best interests of the child.

The current orientation in principle seems to be that of not immediately appointing the person with whom the children has arrived with from Ukraine. This is because they are likely to not know Italian and would not be able to effectively ensure the exercise of the children's rights in the Italy, for example with school enrolment. Further because the Courts need to verify the declared link with the child, in order to avoid cases of abuse and (a not at all remote hypothesis) child trafficking.

5.

- a. What are the regulations and procedures in case a child arrives without parents and any legal guardian (or any papers authorizing the person to care for the child), e.g., a child which is looked after by an adult (e.g., a family friend, a neighbour, someone who found the child alone on the street and took it along to keep it safe...)?
- b. May the return of these children to Ukraine, after the normalisation of the situation, be questioned/hampered by the legal status they receive?

a.

Existing legal framework:

- The legal framework regulating UASC/legal guardianship in Italy is in general terms that is framed by L47/2017 and Legislative Decree 142/2015. As concerns specific aspects concerning Ukrainian UASC specific possible derogations needs to be inquired with relevant authorities (ITA MoJ + UA Embassy/Consulates).

- A national standardised approach on this does not exist and this currently under discussion in relevant inter-institutional fora. While initially only the Juvenile Courts in Brescia and Genoa had issued a circular/guide for Consuls on what to do with UA UASC, other Juvenile Courts have since issued similar guidance.
- Currently, in terms of procedure followed, after the access to the Italian territory, the border police verify if the persons accompanying minors have parental authority, and, if there are no certain documents, they inform the Juvenile Court (JC) and the Ukrainian diplomatic representations (consulates operating in specific cities). Minors accompanied by adults who do not exercise parental authority (e.g. other relatives, acquaintances, operators or private social organizations ...) are considered UASC therefore the procedures provided for by law is followed, including the reporting to the Juvenile Court for the appointment of the guardian foreseen by Law (L. 47/2017).

What does the Plan for Unaccompanied Minors say concerning procedures for arriving UASC:

The Plan, signed by the Delegated Commissioner Francesca Ferrandino, therefore provides that all these minors are reported ("accompanied to the Police Headquarters" - not to the social services, the entry point is the Police Headquarters or, at the most, the Carabinieri if the municipality does not have a Police Headquarters - it is a "duty" for "anyone who is aware" of the presence on Italian territory of an unaccompanied minor "in the sense indicated above") and that a guardianship is opened for them and a guardian appointed by the Juvenile Court.

The guardian may be a voluntary guardian (Law 47/2017 provides for this) or an institutional guardian (usually the municipality, as the managing body of social services): the orientation in principle seems to be that of not appointing in the first instance the person with whom the children arrived from Ukraine, both because they are likely to be people who do not know Italian and would not know how to get around for the exercise of the children's rights, for example for school enrolment, and because the Courts need to verify the declared link with the child, in order to avoid cases of abuse and (a not at all remote hypothesis) child trafficking.

The choice of guardian by law is up to the judge, who has to choose by assessing in the specific situation what is in the best interest of the child.

Procedure for children arriving from institutions – currently under review by Federal authorities:

Currently, in Italy, minors who lived in institutions in Ukraine, even if they arrive in Italy with their guardians according to Ukrainian law, are considered UASC. Any arriving guardians from Ukraine are not considered legally valid guardians under Italian law, but there is high variance in how this is interpreted in Juvenile courts. Clarifications on procedures and methodologies are currently under definition in the framework of Table for Ukrainian UASC chaired by the delegated commissioner for Ukrainian UASC.

Given that the greatest part of Italian Juvenile courts are de facto considering all minors as UASC, there was an urgent appeal by the Ukrainian Central Authority to the Italian Ministry of Justice to ensure compliance with The Hague Convention for the reception in Italy of minors from orphanages. Currently this issue is under inter- ministerial discussion at the federal level.

Many children who are travelling to Italy alone are joining mothers or other family members in the country. In the absence of apparent risk profiles, children are allowed to continue their journeys to reunite with family members upon entry.

Border officials are issuing temporary custody documents to bus drivers for swift family reunification purposes.

In Italy numerous evacuation initiatives held by community-based organizations or Municipalities are involving Ukrainian children coming from institutional care. This is concerning as evidence suggests that not all children are being registered or reported to the Italian competent authorities, and arrangements are often short-term not considering the complex needs children. However, these practices can vary.

The Hague Convention of 19 October 1996, has been ratified by Italy, but currently there is no central authority dealing with the 1996 Hague Convention and consequently no directive has been issued on how to behave in these cases. Therefore, each juvenile court has decided on its own producing very fragmented practices. Many Italian Juvenile Courts did not recognise the protections regularly issued by the Ukrainian authorities to the heads of institutions and they entrusted minors to other Italian guardians. Other juvenile courts are nominating protutori alongside the Ukrainian guardian.

b.

This situation is extremely complicated, but all the procedures have been set up and are carried out in the best interest of the child. As stated by the European Commission ([Gazzetta ufficiale C 126I/2022 - https://eur-lex.europa.eu/legal-content/IT/TXT/HTML/?uri=OJ:C:2022:126I:FULL&from=EN](https://eur-lex.europa.eu/legal-content/IT/TXT/HTML/?uri=OJ:C:2022:126I:FULL&from=EN)) the impossibility of "returning in safe and stable conditions to one's country or region of origin" is mentioned in Article 2(2) and (3) of the Council Decision.

According to Article 2(2) of the Council Decision, Member States are obliged to apply the protection provided for in the Decision, or appropriate protection under their national law, to stateless persons and nationals of third countries other than Ukraine who can prove that they were lawfully resident in Ukraine before 24 February 2022 on the basis of a valid permanent residence permit issued in accordance with Ukrainian law and who are unable to return in safe and stable conditions to their country or region of origin. According to Article 2(3), Member States may also apply the decision to other persons, including stateless persons and nationals of third countries other than Ukraine, who were legally residing in Ukraine and who cannot return safely and stably to their country or region of origin.

The definition of safe and stable return to one's country or region of origin is not contained either in Directive 2001/55/EC or in the Council Decision. The Commission considers that this is a sui generis concept of the Directive.

The reference to the impossibility to return in safe and stable conditions to one's country or region of origin should be read in the light of Article 2(c) of Directive 2001/55/EC, which explicitly refers to situations of armed conflict or endemic violence and to the serious risk of systematic or generalised violations of human rights in the country of origin. Furthermore, Article 6(2) of Directive 2011/55/EC states that temporary protection shall end when the situation in the country of origin allows for the safe and stable return of the persons granted temporary protection, with due respect for human rights and fundamental freedoms and the obligations of the Member States regarding non-refoulement (4).

In this respect, the impossibility of 'safe return' may result, for example, from a clear risk to the safety of the person concerned, from situations of armed conflict or endemic violence or from documented risks of persecution or other inhuman or degrading treatment or punishment.

In order for return to be "stable" the person concerned should be able to enjoy active rights in his/her country or region of origin which enable him/her to have prospects of meeting basic needs in that country/region and the possibility of reintegration into society.

In determining whether the return takes place "under safe and stable conditions" Member States should base themselves on the general situation in the country or region of origin. However, the person concerned should be able to provide, on an individual basis, prima facie evidence that he or she cannot return safely and stably to his or her country or region of origin. In this context, Member States should assess whether the person concerned still has a significant link with his or her country of origin, taking into account, for example, the time spent in Ukraine or the existence of a family in the country of origin. Due consideration should also be given to the specific needs of vulnerable persons and minors, in particular unaccompanied minors and orphans, based on the principle of the best interests of the child.

6. Which government ministry/department/authority is responsible for the:

- a. the care of children temporarily or permanently deprived of family care & would it be possible to provide immediate contacts?
- b. the care of unaccompanied and separated children (UASC) [from Ukraine] & would it be possible to provide immediate contacts?

b.

Ministry of Labour and Social Policies (MoLSP)/DG Migration and Integration Policy – Director Stefania Congia - scongia@lavoro.gov.it; minoristranieri@lavoro.gov.it; Maria Elisabetta Cimellaro, Administrative and Legal Disputes Officer - mecimellaro@lavoro.gov.it

DG Migration and Integration Policy is responsible for the census and monitoring of unaccompanied minors present in Italy. These duties are carried out through the National Information System regarding unaccompanied Minors (SIM).

c.

Ministry of Interior (Moi) - Department for Civil Liberties and Immigration (DLCI): Office II responsible for UASC reception: Enza Maria Leone, enzamaria.leone@interno.it; and The National Commissioner Delegated to Ukrainian UASC reception - Francesca Ferrandino, liberta.civiliimmigrazione@interno.it

7. Has the government adopted specific legislation/policy or bi-lateral agreements on USAC from Ukraine? If not, would the government develop such legislation / regulations or bilateral agreements?

The Civil Protection with the Special Commissioner appointed for this emergency in Ukraine has set up a *Plan for Unaccompanied minors*. It's relevance for arriving children has been outlined under relevant questions.

Source: *Emergenza profughi ucraini, aggiornato il Piano minori stranieri non accompagnati* / Ministero dell'Interno: <https://www.interno.gov.it/it/notizie/emergenza-profughi-ucraini-aggiornato-piano-minori-stranieri-non-accompagnati>

Supports for housing for young people over 18 years & for families with children (inc. foster care):

Following the Decree of the President of the Council of Ministers regarding the implementation of the TPD was signed and adopted on 28 March 2022, the civil protection service published an ordinance on 29 March 2022 setting out reception and humanitarian support issues. The ordinance confirmed that TPD beneficiaries over 18 years of age who find their own accommodation will be granted a monthly allowance of 300 euros each month for a maximum of 3 months from their arrival, and for each minor in a family the family will receive an additional 150 euros.

8.

- a. Has the government in this country put in place a system/process to track children from Ukraine, especially UASC?
- b. Who is responsible for identification and registration of these children, as well as accommodation and care?

d.

Yes, in general terms, the responsible authorities for identification and registration and tracking of those children are MoI and MoLSP. MoLSP is responsible for the census of UASC present in Italy through a dedicated data base (SIM).

For further information: <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-stranieri/Pagine/Dati-minori-stranieri-non-accompagnati.aspx>.

Data about Ukrainian children fleeing from war are provided by MoI's Department of Public Security, available here: <https://www.interno.gov.it/it/notizie/crisi-ucraina-96989-i-profughi-arrivati-finora-italia>. (last update Apr 26).

Disaggregated data are available as concerns the presence at the regional/urban level and as concerns unaccompanied children, separated children through the SIM.

b.

Social Services of Local Authorities are responsible for caring of UASC. They are also enabled for the census of UASC.

Information can be consulted at https://www.interno.gov.it/sites/default/files/2022-03/benvenuto_eng.pdf

9. Which authorities have responsibility for family tracing and reunification? Contact information provided where available.

The Ministry of Labour and Social Policies promotes the identification of UASC's family members, it collects minor's profiles and any request of the competent Italian social services, and forwards to the **International Organization for Migration (IOM)** all the necessary information to trace a minor's family. Starting from March 2008 IOM has been carrying out family tracing in 47 countries, in any location where safety conditions are granted.

Contact: minoristranieri@lavoro.gov.it

More info here: <http://www.familytracingitaly.org/index.php/en/investigations>

Additional relevant information & resources:

- Dedicated government website: <https://emergenze.protezionecivile.gov.it/en/humanitarian>



- <https://www.lavoro.gov.it/temi-e-priorita/immigrazione/focus-on/minori-Stranieri/Pagine/default.aspx>
- To respond to the Ukrainian emergency and in support of Ukrainian refugees who have arrived in Italy, the Italian Red Cross - <https://integrazionemigranti.gov.it/it-it/Ricerca-news/Dettaglio-news/id/2508/Pronto-Soccorso-Psicologico-per-i-profughi-ucraini-e-le-famiglie-ospitanti> - has set up a psychological assistance hotline: 800065510. The toll-free number, active from 1 April 2022, is nationwide and free of charge. The service is available from Monday to Saturday from 8.00 to 20.00. The service is designed to offer psychological support, both to all Ukrainian citizens who have arrived in Italy and host families. To facilitate access to the support service, services are provided in Italian and English.
- **Latest data on arrivals from the Italian Ministry of Interior (May 9):** <https://www.interno.gov.it/it/notizie/profughi-dallucraina-111386-quelli-giunti-finora-italia>: 111,386 people fleeing the conflict in Ukraine have arrived in Italy so far, 106,033 of which at the border and 5,353 controlled by the Friuli Venezia Giulia railway police department.
- Out of the total, 57,943 are women, 15,082 men and 38,361 minors. The cities of destination declared upon entering Italy are again Milan, Rome, Naples and Bologna. The increase, compared to yesterday, is of 615 admissions in the national territory.