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Working Session 6 “Combating Trafficking in Human Beings,
with a Particular Focus on Trafficking in Children”

***Undocumented accompanied and separated children in Italy:
Between rights violations and good practices***

Good afternoon. My name is Elena Rozzi. I'm a member of A.S.G.I., an Italian association of lawyers, whose mission is to promote migrants' rights.

Undocumented migrant children are a particularly vulnerable group.
Some of them are separated children, others are accompanied by undocumented parents.

According to the Convention on the Rights of the Child, all undocumented children are entitled to the same rights as national children and they must be treated as children first and foremost.
Over the last decade important recommendations and policies concerning separated children have been adopted. Far less has been done by States, international organizations and NGOs, to protect the rights of children accompanied by undocumented parents.

In Italy, undocumented children face some serious violations of their basic rights. But also some good practices can be identified.
I would like to make just a few examples, calling your attention not only on separated but also on children accompanied by undocumented parents (including those born in Italy).

1) **Birth registration** of children born to undocumented parents is crucial: the lack of legal identity produces major rights violations, including risks of trafficking.
Thus birth registration should not be conditioned upon the parents' regular migration status.
It is also important to reduce undocumented parents' fear of detection and expulsion when registering the child: a good practice example is the Italian law that prohibits the expulsion of parents within six months of the child's birth.

2) Undocumented children must have **full access to health care, education and social assistance**.
In Italy, this is only partially true. Undocumented children (both separated and accompanied) are entitled only to urgent or essential health care. They also face serious limitations in accessing kindergarten, secondary school and vocational training.
Italian law guarantees separated children the right to shelter and social assistance, but these rights are denied to children accompanied by undocumented parents.

Moreover, undocumented parents often avoid any contact with services, for fear of detection and expulsion, especially since public officials (except for those working in health services) have been imposed a duty to report irregular migrants to the police authorities.

3) **Protection from expulsion and detention** is a key issue.

Italian law provides that separated children must neither be expelled nor held in detention centers. They can be returned to their country of origin only through “assisted repatriation”, on the basis of a case-by-case assessment of the best interests of the child. These provisions make easier for local authorities to establish a relationship of trust with these children.

On the contrary, children accompanied by undocumented parents can be expelled along with their parents, and no procedures for the best-interest-of-the-child assessment are provided. When the parents are detained pending expulsion, children are either detained with them or separated (sometimes no alternative care is provided).

4) Finally, to fully protect undocumented children’s rights, they must be issued a **residence permit**, as long as they stay in the host country.

Separated children in Italy are issued a residence permit on the basis of their age under eighteen.

But as soon as they come of age, most of these youth become irregular migrants, even if they have a job or attend school. Depriving separated children of any prospect of legal residence past the age of eighteen is one of the main factors driving these children to refuse integration programs, to leave reception centers, and thus to risk exploitation and trafficking.

Unlike separated children, minors accompanied by undocumented parents are generally not issued any residence permit, nor are their parents.

An important exception is the provision that the Juvenile Court can authorize undocumented parents to stay in Italy on the basis of the best interests of the child, in cases where there are serious reasons related to the child’s psychological and physical development. This is an example of good practice, but it is quite seldom and not consistently throughout the territory applied.

Other very positive provisions should be more applied to undocumented children: for example, according to Italian law, a residence permit “for social protection” may be issued to victims of exploitation and to children that have been sentenced by a Juvenile Court and have participated in an integration program.

A priority should be the regularization of Roma children. A large number of these children are undocumented, even though they were born in Italy and their family, coming from ex-Yugoslavia, has been living in Italy for 40 years. Many Roma are *de facto* stateless but Italian authorities usually do not grant them a legal stateless status.

The issuing of a residence permit is key to promote the rights of these children (including protection from exploitation and trafficking) and to break the cycle of exclusion and discrimination of this ethnic minority.



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