

**OPINION  
OF THE ITALIAN AUTHORITY FOR  
CHILDREN AND ADOLESCENTS  
ON THE FIFTH AND SIXTH  
GOVERNMENT REPORT TO THE UN  
COMMITTEE ON THE RIGHTS OF THE  
CHILD**

Pursuant to Art. 3, paragraph 1, lett. *i*), of the Law dated 12th July 2011, No. 112, instituting the Italian Authority for Children and Adolescents

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## Introduction

Since 2011, the Italian Authority for Children and Adolescents (*Autorità garante per l'infanzia e l'adolescenza*, hereinafter also called AGIA) has promoted the effective realization of the child's best interest, through the creation of a “network” with institutions, associations and operators involved in the protection and promotion of the rights of children and adolescents, through the many activities that will be detailed below, despite the limited number of staff available as provided for by the instituting law.

To date, therefore, AGIA plays a pivotal role in raising awareness and providing guidance on childhood and adolescence policies, through the promotion of events, campaigns, studies and the dissemination of practices and memoranda of understanding among State administrations, local and regional authorities, professional orders, concerning the rights of persons of minor age. AGIA is entitled to express its opinion upon the adoption of the legal instruments concerning the rights of children and adolescents. The Authority may also make recommendations and send notes to the competent authorities, urging actions to promote the rights of the child, with the aim of bridging the gaps that may emerge at the application level.

At the international level, the Italian Authority plays an important role participating, as Head of the Delegation for Italy, in the Ad Hoc Committee for the Rights of the Child (CAHENF), which is set up within the Council of Europe and whose activities started on 26th September 2016. The work programme of the expert groups set up within CAHENF, dedicated to issues related to foreign unaccompanied minors (CAHENF-*Safeguards*) and to minors in the digital environment (CAHENF-*IT*), will be aimed at the drafting of recommendations and guidelines to be addressed to the member countries of the Council of Europe.

On the domestic side, the Italian Authority is committed to promoting the rights of migrant minors, also in light of the expected exponential increase of the migratory phenomenon. On the one hand, AGIA has surveyed all practices related to the protection of children arriving in Italy without accompanying adults, collecting data related to the procedure for appointing and exercising the function of guardians, as well as to the timelines; on the other hand, the Authority has scheduled monitoring visits at the first reception centres all over Italy, to ascertain, on the field, the actual conditions in which the reception of unaccompanied minors is carried out.

The monitoring activity of the Authority has reverberated not only internally, but also abroad. The Special Representative of the Secretary General for Migration and Refugees of the Council of Europe, Tomáš Boček, following the fact-finding mission carried out in Italy from 16th to 21st October 2016, emphasised in his Report how useful the activity carried out by the Authority was in clarifying the extent of this phenomenon and identifying the critical issues.

As for the organization of the Office, Art. 5, paragraph 1, of the act of establishment of the Italian Authority for Children and Adolescents No. 112/2011, envisages that the Office of the Authority is composed exclusively of civil servants controlled by other public administrations, up to a maximum of ten units, including a non-executive director.

It is hereby reported that currently there are no independent Authorities in the Italian system with such a small number of staff, which is totally inadequate in relation to the numerous and delicate tasks assigned to the Authority under Art. 3 of the instituting law.

The lack of an autonomous organic role involves considerable difficulties in the search for human resources, with the Office lacking staff in delicate areas of intervention.

The multiple and diverse competences attributed to the Authority and the consequent need for multidisciplinary expertise of its staff makes it essential to have an homogeneous and unique framework to release staff from the Administrations and guarantee a real autonomy and independence.

As for financial resources, Art. 5, paragraph 3 of the instituting law, envisages the provision of a Fund in the budget of the Presidency of the Council of Ministers for the fulfilment of the powers attributed to the Authority and its functioning.

The estimated ordinary financial contribution from the State budget for the year 2015 amounted to € 1,122,089.00.

During the financial year, the contribution underwent a net increase of € 600,000.00 in accordance with Art. 1, paragraph 168 of the Law dated 23rd December 2014, No. 190 (Stability Law 2015).

Therefore, the resources that have ultimately been assigned to the Authority for the year 2015 totalled € 1,722,089.00.

It should consequently be pointed out that this increase was only foreseen for the financial years 2015-2016-2017, therefore the funds allocated to the Authority in the estimate budget of the Presidency of the Council of Ministers, for the year 2018-2019, amount to € 800,000.00 approximately.

***In light of the above, it is hoped that the 2017 budget law will provide for the extension of the same increase in the expenditure, also for the three-year period 2018-2020.***

It is evident that a drastic reduction of resources would make it impossible for the Authority to have a sufficient capability to fully and independently carry out the numerous institutional functions assigned to it.

With this opinion, in order to safeguard and promote the rights enshrined in the New York Convention on the Rights of the Child, the Authority hopes it will be guaranteed a real autonomy and independence, through adequate human, technical and financial resources and that it will be conferred effective and cogent powers to fulfil its multiple tasks, which could be incorporated in a more punctual and harmonious way, in view of the amendment of the instituting law.

These resources and powers are all the more essential in view of new competences attributed to the Authority under the recently approved laws, such as Law 47 dated 7th April 2017 on foreign unaccompanied minors, which assigns to the Authority the task of selecting and training volunteering guardians and to enter into memoranda of understanding with the courts in the regions without a regional authority.

## **1. Establishment of the Italian Authority for Children and Adolescents**

The need for an Authority for the rights of children and adolescents arises from the obligations and commitments deriving from the 1989 New York Convention on the Rights of the Child (adopted in Italy under Law No. 176 dated 27th May 1991, hereinafter also referred to as “CRC”) and, more generally, from the emergence of a different concept of childhood, which, also in our country, is manifested in the legislative innovation in the field of juvenile justice and in the social and cultural promotion policies that have developed over the recent years (see, for example, Law No. 285 of 28th August 1997, laying down the provisions for the promotion of childhood and adolescent rights and opportunities, and Law No. 149 of 28th March 2001, amending Law No. 184/1983 on adoptions and foster care of minors).

The need for an independent supervisory body is also reflected in the recommendations of the International Committee on the Rights of the Child, provided for by the CRC itself, which, in the 2002 General Observation on the “creation of independent national human rights institutions”, recalls this commitment among those undertaken by the Countries ratifying the Convention.

At the regional level, Art. 12 of the European Convention on the Exercise of the Rights of the Child (signed in Strasbourg on the 25th January 1996 and enforced by Law No. 77 of 20th March 2003) calls on States to encourage the promotion and exercise of the rights of the child through bodies having, among the other things, the task of formulating proposals to strengthen the legislative instrument for the exercise of children's rights, and the opinions on the legislative projects on the same matter.

Art. 31, paragraph 2, of the Italian Constitution stipulates that the Republic “protects maternity, childhood and youth by encouraging the necessary institutions for this purpose”.

The definition of the institutional profile of the Authority and of the functions assigned to it, as an independent national Institution for human rights, are defined in more detail in the so called “Principles of Paris”, which offer a systematic view - though of a *soft-law* kind - of the criteria that should inform the institutions in charge of the protection of human rights, both in structural terms and in functional terms, and are contained in the Resolution 48/134 of 20th December 1993 of the General Assembly.

In our country, the process that led to the setting up and gradual affirmation of the Ombudspersons for the Protection of Children and Adolescents has been characterized by a multi-year process that was not a result of a vertical process, but stemmed out of the Regions which, based on a different awareness and openness to the cultural debate, have felt the need to equip themselves with these supervisory institutions.

As regards the establishment of the Italian Authority for Children and Adolescents, therefore, the approval of the instituting law of the Authority was reached in 2011 (more than twenty years after the adoption of the CRC), with Law No. 112, long after many Italian regions had already established the position of ombudspersons in charge of the protection of children's rights at the local level.

With this law, therefore, Italy - which over the years has shown itself to be a Country which acts promptly and is sensitive to minors' problems - has bridged a severe legislative gap.

In order to explain the activities of the Authority for Children and Adolescents and to illustrate the Convention on the Rights of the Child, in 2013, the Italian Authority published the report entitled “*Che avventura stratopica, Stilton! Alla scoperta dei diritti dei ragazzi*”, (What a super mousy adventure, Stilton! At the Discovery of Children's Rights), distributed in several copies and presented in events and festivals. Later on, in 2015, “*La Costituzione italiana presentata ai ragazzi*” (The Italian Constitution for Children) was published for the free distribution to schools, hospitals, associations and libraries, with which the Authority sought to make the 12 fundamental principles that are at the basis of the Italian Constitution, easily understandable, with a simple language that children can easily understand.

In July 2014, the Authority has created and distributed a *Welcome Kit*, a passport of rights, aimed at providing information to [foreign minors](#) arriving in our Country without accompanying adults.

The tasks of the Authority provided for by law No. 112/2011 can be summed up and differentiated according to the following types:

### **1. Letting children be heard and participate**

AGIA ensures suitable forms of consultation, including those dedicated to children. By providing these services, in fact, the theme of letting children be heard and participating is enhanced. This fosters the development of the culture of mediation and of any institution that is able to prevent or resolve conflicts involving young people through agreements, stimulating the training of the care givers operating in this sector, promoting consultations and collaborations, fostering and raising awareness on the issues of childhood and adolescence. The AGIA moreover participates in Observatories.

### **2. Proposals, opinions and observations**

The Authority expresses its opinion on the National Plan of action and intervention for the protection of the rights and the development of subjects in evolutionary age and on the Report that the Government regularly submits to the Committee on the Rights of the Child, pursuant to Article 44 of the New York Convention, that must be annexed to the report; it formulates remarks and proposals on the identification of the essential levels of social and civil care concerning the rights of minors, as referred to in Article 117, second paragraph, letter m) of the Constitution, and ensures

the compliance with these standards; it can express opinions to the Government on the Government's bills of law, as well as on the draft laws discussed by the Chambers and on the Government's normative acts on the protection of the rights of children and adolescents.

The Authority's priority strategic goal is to be committed to affect the Italian legislative system and to encourage the adoption of laws that have been debated for years, whose implications can have a significant impact on the quality of life of thousands of children and adolescents.

Too often, however, the texts of the draft laws are not transmitted to the Authority in order to obtain its opinion, making it difficult for it to exercise prior control over the drafting of legislative proposals, also considering the fact that the subject of childhood and adolescence is transversal to various areas and falls within the competence of several Ministries.

### **3. Reporting**

The Authority reports to the Government, the Regions or the local and regional authorities concerned, within the scope of their respective competences, all the appropriate initiatives to ensure the full promotion and protection of the rights of children and adolescents, with particular reference to the right to family, school, education and health. It examines, also of its own motion, general and particular situations which it has come to know in any way, where it is possible to perceive the violation or the risk of violation of the rights of persons of minor age, including those related to the media, ultimately reporting them to the bodies having control or sanction powers (IAP – *Istituto di Autodisciplina Pubblicitaria*, Advertising Self-Regulatory Institute, Committee for Media and Minors, but also Post police, social services, etc.).

Anyone can contact the Authority to report violations or situations of risk of violating the rights of minors living on our national territory.

### **4. Information, inspections and controls**

AGIA may require public administrations, as well as any public entity and private entity, to provide relevant information for the protection of minors and can require competent administrations to access data and information and to conduct visits and inspections, according to the forms and arrangements agreed upon with the administrations involved, at public or private facilities hosting persons of minor age; it may make visits to the juvenile justice services, subject to the authorization of the surveillance magistrate for minors or the judge in charge of the proceedings. The prior agreement/authorization on the forms and methods of visits and inspections represents a limit to the action of the AGIA as for the protection of children and adolescents.

The Authority carries out a coordination action of the National Conference for the Protection of the Rights of Children and Adolescents (Art. 3, paragraphs 6 and 7, of Law N. 112/2011).

In this context, also the driving action that the Authority promotes towards the Regions that have not yet approved a law for the establishment of the Regional Ombudspersons or although having approved it, have not yet appointed one, plays an important role.

In fact, in keeping with the role of encouraging regional protection authorities that the instituting law No.112/2011 has ascribed to the Authority for the Children and Adolescents, the Regions of Abruzzo and Valle d'Aosta (which have not as yet promulgated any law on this matter) have been urged to provide for the establishment of an Ombudsperson for children and adolescents in a timely manner time, whilst the Molise, Sardinia and Tuscany regions have been invited to appoint an ombudsperson: Molise and Tuscany have not, as yet, reappointed the Ombudsperson whose mandate expired, while the Sardinia region, though having promulgated the instituting law long before, has never proceeded to implement the provisions envisaged by the regional regulation. Sicily and Piedmont have recently appointed an ombudsperson.

The Authority has been actively involved in the reconstitution of the National Consultation of Associations and Organizations Promoting and Protecting the Rights of Childhood and Adolescence, a permanent consultation body of the Authority that gathers the most representative

stakeholders engaged in activities for children and adolescents, also in response to the objective of expanding the network of institutional relations and civil society.

Finally, the Authority guarantees the participation, as a permanently invited institution, in the National Observatories for the promotion and protection of the rights of persons of minor age and in particular:

- a) in the National Observatory for the Family, as referred to in Article 1, paragraph 1250, of Law No. 296, and subsequent modifications;
- b) in the National Observatory for Infancy and Adolescence, as provided for in Articles 1 and 2 of the Regulation referred to in the Decree of the President of the Republic of 14th May 2007, No. 103;
- c) in the Observatory for the fight against child paedophilia and pornography, as referred to in Article 17, paragraph 1-bis, of Law No. 269 dated 3rd August 1998;
- d) in the National Observatory for the Integration of Foreign Students and Interculture, re-established by Ministerial Decree of 5th September 2014.

The Italian Authority for Children and Adolescents is also a member of the Permanent National Juridical Observatory (ONPG) as it is interested in contributing to the identification of alternative dispute resolution methods (mediation, assisted negotiation, collaborative divorce), as foreseen by its instituting law.

The Authority carries out a permanent monitoring of the Parliament and Government acts concerning childhood and adolescence and conducts hearings with Parliamentary Committees. More specifically, special synergies are promoted with the Parliamentary Commission for Childhood and Adolescence.

In 2014, the Parliament began a review activity of child-related bills of law. Over the years, the Authority has expressed its opinion, on a representative basis, on the following draft laws:

- a) bill of ratification of the optional third protocol to the 1996 Hague Convention on jurisdiction, applicable law, recognition, enforcement and co-operation in respect of parental responsibility and measures for the protection of children
- b) bill of law A.C. 3139-B, which provides for important and concrete actions to counteract and prevent cyberbullying, currently under examination by the Chamber of Deputies, which is expected to be approved shortly;
- b) bill of law A.S. 1978 on the access of the adopted child to information on the identity of his/her parents;
- d) bill of law A.S. 2583 which contains amendments to the single text of the Legislative Decree No. 286, dated 25th July 1998, and introduces an organic reform of the discipline of foreign unaccompanied minors, definitively adopted by the Chamber of Deputies on 29th March 2017;
- e) bill of law A.S. 2092 entitled “Provisions on Citizenship”, which streamlines the procedures to access Italian citizenship for children of foreigners born in Italy;
- f) bill of law A.S. 2719 which contains specific provisions in favour of orphans of domestic crimes;
- g) bill of law A.S. 2284 which, within the scope of the reform of the civil proceeding, provides for the abolition of juvenile courts. This bill of law, currently under discussion at the Senate, in the present formulation is likely to weaken the existing protection system.

The following interventions by the AGIA are also reported:

- a) on January 26th, 2016, opinion on the Decree of the Prime Minister of 10th November 2016, No. 234 - “Regulation establishing the mechanisms for determining the age of unaccompanied minors who are victims of trafficking, pursuant to Article 4, paragraph 2, of the Legislative Decree No. 24”, effective since 6th January 2017;
- b) on 28th June 2016, hearing at the Parliamentary Commission on Childhood and Adolescence in the context of the surveying of minors outside of the family home;

- c) June 30th, 2016, hearing at the Justice Commission in the context of the inquiry into the state of implementation of the law on adoption and foster care;
- d) on 25th July 2016, opinion at the chamber of the Labour Committee of the Chamber of Deputies, in the context of the examination of the legislative proposals laying down rules on the use of closed-circuit video surveillance systems in nurseries and primary schools.

AGIA has played an important role in raising awareness on the issues of trafficking, prostitution and child pornography, as discussed in more detail further below. This awareness-raising action also has an international scope, since AGIA is part of the European Network of Ombudspersons for Children (ENOC) and participates in the activities of the Council of Europe in the field of the protection of children's rights, as already highlighted above. Building on this work, and among the numerous activities carried out, AGIA organized a conference on “The Fight Against Sexual Abuse and Sexual Exploitation of Children” held in Ferrara on 21st November 2016 in the framework of the European Day for the Protection of Children against Exploitation and Sexual Abuse established by the Council of Europe. Again on the subject of violence, the Authority participated in the conference organized by CISMAI - General States 2017 - on mistreatment and violence, held in Bologna on 10th February 2017; AGIA has also participated in the ENOC project “*Let's talk young, let's talk about violence*” launched in June 2015. AGIA has translated into the Italian language the brochure explaining the video “*Tell someone you trust*”- already widely disseminated in English - elaborated in the Council of Europe.

AGIA also provided its input on this issue by promoting a “National Survey on Child and Adolescent Mistreatment in Italy” in 2015, a national data collection on minors victims of mistreatment assigned to social services, which has involved 213 Italian municipalities, i.e. a sample of about 2.4 million minors. This research work aimed to measure and analyse the scope of mistreatment and violence on children and adolescents.

Concerning the coordination of the application of the CRC and the respective Protocols and the activities of the Regional Ombudspersons, Art. 3, paragraphs 6 and 7 of the instituting law N. 112/2011, provides for the National Conference for the Protection of the Rights of Children and Adolescents, chaired by the Authority and composed of the Regional Authorities for the Protection of Children and Adolescents, or of similar bodies, if any. The Conference is convened on the initiative of the Authority or at the request of the majority of regional Ombudspersons for Childhood and Adolescence, or similar bodies.

AGIA collaborates with the Ombudspersons of the regions and autonomous provinces:

- chairing the Conference for the Protection of the Rights of Children and Adolescents and the bilateral relations with the individual Ombudspersons;
- fostering the promotion of the presence of an Ombudsperson in each Region;
- ensuring the engagement and support for regional activities.

The Authority organizes visits to the various areas of Italy, in order to analyse study issues of national importance in depth, to examine local aspects, to know first-hand about individual positive experiences and listen to children, adolescents and care givers (as it has happened, for example, at the Santobono- Pausilipon Hospital of Naples, at San Patrignano, at the Malaspina Penitentiary in Palermo, in the “Land of fire” (Terra dei fuochi), in Aversa, in Borgo Mezzanone (Foggia), and in the Municipal Council for the Young People in Milan).

Currently, the Ombudsperson in office is Filomena Albano, in office since 28th April 2016. The assignment has a four-year term and is renewable. It is the only independent authority in Italy with a monocratic female leadership.



For further information about the Ompudsperson please visit the official address of the Authority (<http://www.garanteinfanzia.org/il-garante>), while the Ombudsperson's CV is available at the following address:

<http://www.garanteinfanzia.org/sites/default/files/example/CV%20Filomena%20Albano.pdf>

## **2. Comments on the Government Report on the Implementation of the 1989 Convention on the Rights of the Child**

### **1. GENERAL APPLICATION MEASURES**

The Italian Authority for Children and Adolescents welcomes the ratification, by Italy, of the international instruments set out in the Government Report as well as the implementation of the European Directives in the sector of childhood and adolescence.

***The Authority hopes to ratify, in a short time, the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.***

The Authority notes that currently there is a lack of ongoing dialogue, negotiation and signature and ratification of international (but also European) instruments affecting the rights of minors, between government bodies and the Authority. This coordination is necessary for the effective protection and promotion of children's rights, in order to lead a strong and united action in this area.

***It is therefore desirable for the Government to involve the Authority in the process of adopting (drafting and negotiating) international obligations (international treaties) and in developing and negotiating European regulatory instruments affecting children and adolescents.***

***The Authority hopes to be actively involved not only in the negotiation phase of international obligations but also in the implementation, in our legal system, of the rights enshrined in the Convention.*** In this context, by way of example, the Authority has started a fruitful dialogue with the Department of European Policies at the Presidency of the Council of Ministers in order to be informed of the infringement procedures that are being instituted by the European Commission against Italy for the alleged violation of the Union instruments concerning minors and adolescents.

#### **National Strategy**

*The IV National Plan of action and intervention for the protection of the rights and the development of subjects in evolutionary age* (hereafter also referred to as *Childhood and Adolescence Plan*) is the guidance instrument to ensure the implementation of the rights of children on the entire national territory, according to a strategic and global vision.

The Fourth Action Plan was passed by the representatives of the National Observatory for Infancy and Adolescence on 28th July 2015, received the positive opinion of the State-Regions Conference on 11th February 2016, was approved by decree of the President of the Republic on 31st August 2016 and was finally published in the Official Journal of the Italian Republic on 15th November 2016. The concrete and immediate applicability of the proposed actions was affected by the long approval times.

At the same time, the Government has put in place measures to support childhood and adolescence which, however, must be adequately coordinated with the Plan itself, also during the implementation times, and should be fully reflected in the implementation of the Childhood Plan, already starting from their planning and communication to citizens.

***It would be desirable to coordinate the actions contained in the Plan and to identify the resources specifically allocated for their implementation through the concerted action of the various political and institutional players involved.***

It should be positively noted that the Childhood and Adolescence Plan has been integrated with other national planning instruments such as the National Disability Plan and the National Plan for the prevention and counteracting of sexual abuse and sexual exploitation of children 2015-2017, so as to build a comprehensive strategic vision of the policies for childhood and adolescents.

***It is hoped that the recently re-established National Observatory for Childhood and Adolescence will be able to monitor the Plan through a system that verifies the state of implementation of the envisaged measures, to identify accountabilities and to foster the engagement of the final recipients of the actions, thus also children and adolescents.***

By virtue of its privileged position of standing invitation to various Observatories, and thanks to its role as a third institution participating in different inter-institutional tables and networks, the Authority is seeking to actively contribute to provide a comprehensive strategic vision of childhood and adolescent policies, representing a link connecting the institutions concerned at all levels.

*National Plan for the prevention and counteracting of sexual abuse and sexual exploitation of children 2015-2017*

The phenomenon of violence and abuse perpetrated on minors is a particularly complex issue.

***The protection system which, at the regulatory level, has recently been refined following the Italian ratification of two international conventions*** (see Law No. 172 of 2012 on the ratification of the Lanzarote Convention and Law No. 77 of 2013 on the ratification of the Convention of Istanbul), ***encounters some critical issues especially at the application level and requires system interventions both in preventive and in repressive terms.***

With a note dated 5th August 2016, the Authority has raised awareness among the competent national and local Institutions on some urgent interventions.

On August 30th, 2016, the National Observatory for the fight against child paedophilia and pornography was re-established, with the task, among other things, to capture, analyse and monitor data and information on the activities carried out by all public Administrations for the prevention and repression of the phenomenon of child abuse and sexual exploitation, as well as to draft the National Plan for the prevention and counteracting of sexual abuse and sexual exploitation of children. In October 2016, the Authority was invited to permanently participate in the works of the re-established Observatory. In this capacity, it is actively engaged in the works of the Observatory and monitors the implementation of the aforementioned National Plan for the prevention and counteracting of sexual abuse and sexual exploitation of children, confirming its focus on these issues.

*Essential Levels of Social Services (LIVEAS)*

***With reference to Essential Levels of Social Services, the Italian Authority for Children and Adolescents believes that it is not enough for the Government to adopt a soft law approach.*** For the adoption of uniform and coordinated essential levels at the national and regional level, the actions undertaken by the legislator on this issue are significant but not resolute.

In 2015, the Authority, pursuant to art. 3, paragraph 1, letter l) of Law No. 112 dated 12th July 2011, submitted a proposal document, which emerged from the Working Table on the identification of the essential levels of social and civil care concerning the civil and social rights for minors, whose strategic objectives were then included in the Action Plan for Childhood and Adolescence, under the heading “Essential and Cross References”.

*Therefore, in defining the essential levels of services it is necessary to start from the aforementioned document in order to develop a synergic action that is shared between the legislator and the various administrative entities.*

The involvement of different public entities is required both considering the multiple sectorial competences assigned to the various administrations and to promote the building of a social system that can balance the rights to services and those of economic sustainability. With regard to this last item, in fact, the theme of the definition of LIVEAS shall be tackled together with the issue of the financial resources needed to guarantee them. In the light of this, in ***determining the essential levels of services*** in question, *is essential*:

- a) to encourage the participation of social partners* in the new 2014-2020 planning as defined by the European Commission with the Code of Conduct on the Partnership for Structural Funds and European Investments;
- b) to enhance and support the consultation* of individual social experiences of self-organization/family services useful to reconstruct the complexity of needs expressed by the territory;
- c) to allocate ad hoc resources*, including in the form of awards (such as those of the Structural Funds), to strengthen, at the level of the Administrations, the programming, operational and professional capabilities to act in an integrated way for families;
- d) to initiate a research on the experiences of circular subsidiarity*, which, taking into account the specificities of the territorial context, would highlight the elements of innovation in relation to shared family policies.

*Finally, it is desirable to foresee forms of integration between Essential Levels of Social Services (LEPS) and Essential Levels of Health Care (LEA). For these reasons, the Authority considers that, despite the positive review of the LEA contained in the Decree of the Prime Minister of the Council of Ministers (DPCM) of 12th January 2017 and published in the Official Journal No. 65 of March 18th, 2017, the lack of integration in this sense must be considered as a future challenge to offer increased and more adequate guarantees in the definition of the essential levels of services to be provided to citizens.*

### **Overall authority**

It should be noted that by participating, *tertium super partes*, in the National Observatory for Childhood and Adolescence, the National Observatory for the Family, the National Observatory for the Fight against Child Paedophilia and Pornography, the National Observatory for the Integration of Foreign Students and Interculture, the Authority has proved to be a supervisory entity that is committed to ensuring the uniformity of interventions and measures in a global vision that overcomes the existing fragmentations and the logic of emergency responses.

#### *The National Observatory for the Family*

The National Observatory for the Family was rebuilt in August 2016 by decree of the Minister of Regional Affairs and Autonomies in charge of family policies and started its office on 8th November 2016. Pursuant to Art. 3 of the aforementioned decree, the Italian Authority for Children and Adolescents participates in the works of the Observatory Assembly on a permanent basis with its own representative, in order to ensure the appropriate forms of cooperation, synergies and support.

The purpose of the Italian Authority for Children and Adolescents, in fact, is to support the members of the National Observatory for the Family, especially in the case of families with young

children, in order to develop a National Family Plan, integrated and consistent with the National Childhood Plan, which contains precise goals and workable solutions. The intention is also to ensure that the envisaged measures are actually implemented. According to the opinion of the Authority, the Plan, in fact, shall also contain a monitoring and evaluation system to protect the rights of persons of minor age.

The fact that, for the first time, the Authority has been involved with a permanent invitation, stands for an important premise for reinforcing the synergies between institutional players who, in various capacities, pursue the common goal of making implementable and protecting the rights of persons of minor age.

In addition, for the Italian Authority for Children and Adolescents, participating in the work of the National Observatory for the Family means not only working in the direction of strengthening and consolidating the networks with associations, organizations and institutions working in the field of the protection and rights of children and adolescents, but also to promote a constructive dialogue to put once again the families at the centre, as an active player in public policies.

In addition, the Italian Authority for Children and Adolescents has signed, *inter alia*, a Memorandum of Understanding with the Department for Family Policies at the Presidency of the Council of Ministers, in order to forge the appropriate synergies among common themes of different departments, national observatories and institutions.

### **Budget**

The Italian Authority for Children and Adolescents emphasizes the lack of a single institutional body whose task is to clearly define the management and economic flows for the development of *policies* focusing on the protection of the young people. The fragmented and diversified institutional and administrative framework, at the central level, makes it difficult to monitor and evaluate the effectiveness of the resources made available for the implementation of public policies for childhood and adolescence, also as evidenced in a dossier, drafted and published in 2015 by the Authority in collaboration with experts, entitled “*Disordiniamo! La prima fotografia delle istituzioni centrali e delle risorse nazionali dedicate all’infanzia e all’adolescenza*”, Let’s make a mess! (The first photograph of central institutions and national resources dedicated to childhood and adolescence), which includes a mapping of both central institutions and funds allocated to childhood and adolescence by the central government.

*In the light of this, the Authority hopes to set up a national “steering committee” to be entrusted with the task of guiding the political strategies considered to be of priority to minors, in order to make public action more effective and efficient and to ensure, at the same time, a greater determination in the allocation of resources and in the monitoring of the decision-making processes.*

*This “steering committee” should also assume the task of creating a unique system for the collection of data on children and adolescents, overcoming the current fragmentation. The single data system would also have a positive impact on the rationalization of public spending.*

### **International assistance**

*The Italian Authority for Children and Adolescents hopes to be fully involved in the definition of national policies concerning childhood and adolescence.*

The Authority deems it necessary to state that it does not represent the Italian Government in the work of the Council of Europe, due to its nature as an independent authority, as a third party to the State Institutions. In fact, it is involved in the exclusive interest of the persons of minor age.

### **National human rights organisation and Ombudsman for Children**

*The Italian Authority for Children and Adolescents points out that there are only two Regions - out of a total of twenty - that have not yet legislated for the establishment of the Regional Ombudsman; these are Abruzzo and Valle d'Aosta. Many local bodies have been endowed themselves with a similar role that is competent for the territory.*

*It should also be pointed out that there is a tendency to incorporate the roles of the ombudspersons (Ombudsman, Authority for Children and Adolescents and Defender of the Rights of Inmates) in those Regions that have historically promoted the establishment, as well as the dissimilarity of terms in office, operational approach, staff and means.*

Within the scope of the National Conference for the Protection of the Rights of Children and Adolescents, chaired by the Authority, the first Guidelines on Reporting were adopted, contained in the document “Reporting Management Procedures by the Regional Authorities and the Autonomous Provinces of Trento and Bolzano”, which is annexed to this Opinion (Annex 3). In 2016, precisely as far as reporting is concerned, the connection role between the Authority and the Regional Ombudspersons and the Autonomous Provinces was promoted. Indeed, owing to its closer proximity to citizens and territorial resources, the Regional Ombudsperson in accordance with the principle of subsidiarity, represents the entity that is competent for responding to requests and the meeting the individual and local needs that emerge from the reports. In order to give a concrete effect to this interpretation, in the section of the site of the Authority dedicated to the reports, the Network of Ombudspersons and *links* that refer to their respective regional and provincial sites have been highlighted.

Moreover, as regards the reports relevant to television shows, a link has also been inserted on the Authority website that invites viewers to use of the appropriate form to send the report to the “Committee for the Application of the Self-Regulatory Code for the Media and Minors” , established at the Ministry of Economic Development, which is in charge of detecting and sanctioning television messages deemed not appropriate for viewing by minors.

### **Awareness of the Convention**

As for the activities for the prevention and countering of bullying and *cyberbullying* phenomena, many projects have been put in place.

The Authority is partner of the project “*Generazioni Connesse*” (Connected Generations) (*Safer Internet Centre III*) the national centre for the promotion of a safe and positive use of Internet and digital technologies, which has been running since 1st July 2016, with a new edition, co-funded by the European Commission under the “*Connecting Europe Facility*” (*CEF*) program.

The project is co-ordinated by MIUR, in partnership with the Ministry of the Interior, Post and Communications Police, the Italian Authority for Children and Adolescents, Save the Children Italy, Telefono Azzurro, University of Florence, University of Rome “La Sapienza”, Skuola.net, the Cooperative EDI and *Movimento Difesa del Cittadino* (Citizens Defence Movement), Agenzia Dire, with the aim of giving continuity to the experience gained over the years, improving and strengthening the role of the *Italian Safer Internet Centre* as a national reference point for the issues related to network security and the relationship between the young people and the new media.

The general objective of *Generazioni Connesse* is to promote strategies designed to make the Internet a safer place for younger users, promoting its positive and aware use.

The Authority has participated in the *Safer Internet Day*, the world day for the network security, set up and promoted by the European Commission. The Authority has posted the permanent link to the site of *Generazioni Connesse* on its institutional site and promotes various initiatives implemented within the scope of the project also on its *social network*.

The protection of younger people in the world of communication is a particularly sensitive topic and the Authority has been carrying out actions aimed at promoting and raising awareness, also by participating in numerous national events, with a view to preventing and informing, these being

fundamental and indispensable elements to stem the phenomenon of *cyberbullying*, which has witnessed a strong involvement of youngsters, both as victims and as perpetrators. There is also a need for legal protection, and the bill of law currently under examination by the Chamber of Deputies (Chamber Act No. 3139) is heading in this direction.

### *Training*

With reference to the collaborative activities with the Ministry of the Interior, the Italian Authority for Children and Adolescents and the Department of Public Security have started a strategic and operational cooperation to ensure the full implementation of the protection of rights and interests of people of minor age. This cooperation was finalized on January 2014 with a Memorandum of Understanding under which a *Vademecum* was created: guidelines and operating instructions to support the day-to-day work of the Police Forces and to provide actionable insights into the training activities on the issue of children's and adolescents' rights.

Police Training Courses have also been organized, which will be held *online* in order to widely spread the knowledge of the Convention on the Rights of the Child, the knowledge of the Authority for the protection of the rights of children and adolescents and of its tasks and functions, as well as the adoption and implementation of uniform practices and procedures, in all contexts involving minors and in which the Police Forces do intervene.

### **Cooperation with civil society** *Data collection*

Among the commitments of the National Observatory for the fight against child paedophilia and pornography, there is the establishment and the maintenance of a Data Bank which collects, through the contributions provided by the administrations concerned, the information necessary to monitor the phenomenon of abuse and sexual exploitation of minors, child pornography, and of the associated prevention and repression actions.

The data currently contained in the database are updated as at 2012.

The Authority has been provided access to the database credentials and the staff of the office attended an informative-training day concerning the use of the database in question. It is also emphasized that the S.In.Ba. - The National Information System for Children and Adolescents, promoted by the Ministry of Labour and Social Policies - could be used to cast a special focus on the specificity of abuse and mistreatment.

The Decree issued by the Ministry of Labour and Social Policies No. 206 of December 16th, 2014, regarding the Regulations implementing the Assistance Records (*Casellario dell'Assistenza*) (Article 13 D.L. of 31st May 2010, converted by Law No. 122 of 30th July 2010), is an important breakthrough which may lay down the foundations of a permanent monitoring system of mistreatment, as it envisages the creation of a national registry of all those (including minors) receiving social benefits and multidimensional assessments by the Professional Social Service, coordinated by INPS (National Institute of Social Insurance) and powered by the data of all local authorities and service providers, starting with the Municipalities. The Casellario also provides the specific S.In.Ba. module, aimed at the database for the multi-dimensional assessment for the provision of assistance.

***It is hoped that, during the implementation phase, this important monitoring information base may provide a more detailed and specific view of the different forms of mistreatment (with its definitions nomenclature according to the scientific literature) and of the perpetrators. In this way, the introduction of the Assistance Records and of the Information System S.In.Ba. will allow our country to have a complete and updated database, which is absolutely necessary.***

### *State obligations regarding the impact of the business sector on children's rights*

The General Comment No.16 of the Committee on the Rights of the Child, dedicated to the State's obligations with regard to the impact of the business sector on children's rights (2013), clearly states

that these activities, which mainly have a financial nature, may have an important impact on the human rights of children and adolescents. These activities can affect children's rights in different ways, including indirectly, for example when an enterprise does not allow parents the right organization to ensure children's development. In Italy, there is a lack of joint action by the Institutions to foster the knowledge and understanding of the Convention on the Rights of the Child and Protocols within businesses, so as to encourage a corporate culture (within the business itself, but also to reverberate on their production chain) that is respectful of the rights of the minor.

*It is therefore hoped that the Authority will continue to be involved with the National Plan as well as, as highlighted by the Committee on the Rights of the Child in the General Comment No. 16, in the awareness-raising activities dedicated to businesses in relation to the provisions of the Convention.*

## 2. DEFINITION OF A CHILD

In Italy, the legal capacity, which is the right to be the holder of rights and duties, is acquired by birth, but only upon reaching the age of 18 years does a person become entitled to properly dispose of one's rights (ability to act Art. 2 of the Civil Code).

However, the Italian legislation provides for certain situations where some acts are also validly carried out by persons who have not yet reached the age of eighteen; as shown in the Report, this is true both in the context of employment relationships and with reference to the family law for the recognition of the child born out of the marriage and for the possibility ascribed to the emancipated minor to get married.

To integrate the cases already mentioned in the Report, it is hereby noted that:

a) the minor may personally turn to the social-health care and drug-addiction prevention facilities (Article 95 of Law No. 685 of 22nd December 1975) and may have access to family counsellors in order to achieve the goals in relation to responsible procreation;

b) a minor woman can personally ask the tutoring Judge the authorization to stop a pregnancy in the first ninety days, "*when there are serious reasons for preventing or refusing to consult persons exercising the parental authority or guardianship power, or if, upon request the latter refuse to give their assents or express different opinions*" (Article 12, L. 22.5.1978, No. 194);

c) at the age of fourteen, the minor shall be heard in the event of a conflict between the parents on the exercise of liability (Article 316 of the Civil Code) and shall give his or her consent to the adoption or shall be heard if he or she has reached the age of twelve (Art. 7, 25, L. 4.5.1983, No. 184).

Therefore, except for cases where there is a specific rule that allows a minor to carry out legally relevant acts, the minor is subject to parental responsibility, or, failing that, to a guardian appointed by the judge until he or she reaches the age of majority.

For this reason, the appointment of the guardian by the judge becomes crucial when it comes to the rights of unaccompanied foreign minors. In these cases, in order to avoid the danger of disregarding the rights recognized by the International Conventions, it is necessary that the appointment of the guardian be carried out promptly and that all related procedures be initiated and concluded as soon as possible. The monitoring activities undertaken by the Italian Authority for Children and Adolescents on the procedures for appointing guardians are referred to in the section of the opinion relevant to cluster 9 on unaccompanied minors, in the paragraph related to the appointment of guardians.

With reference to the appointment of the guardian, the procedure outlined in Article 11 of Law No. 47/2017, which entered into force on 6th May 2017, is hereby highlighted.

In relation to the age of majority, there is a need to ***provide for organic measures, even of a regulatory nature, in order to provide greater support for children who have lived away from their family of origin and who have not been adopted by the time they have reached the age of majority.***

*Correlated to the attainment of the majority, it should be noted that there is a need to provide for organic measures, included of a regulatory nature, in order to provide greater support for children who have made a journey away from their family of origin and who have not been adopted upon the attainment of the majority. As a matter of fact, these children, upon the attainment of the majority, are missing the opportunity to continue to enjoy the support of a structure; For them, it is hoped that measures will be introduced that are aimed at allowing them to complete their education and integration into the world of work.*

### **3. GENERAL PRINCIPLES** *Measures to ensure the elimination of any form of discrimination against Roma children*

The number of Roma and Sinti in Italy is estimated to stand at between 120,000 and 180,000, or 0.25% of the total Italian population, one of the lowest percentages in Europe (Annual Report 2015, July 21). Approximately 60% of the Roma population is under the age of eighteen.

In February 2012, the Italian Government adopted a National Strategy for the Inclusion of Roma, Sinti and Travellers, that was specifically focussed on four key areas: education, housing, health and employment. Among the key assumptions of the Strategy are the commitment to abandoning the emergency approach and the definitive abandonment of the "nomad camps".

The great dis-homogeneity that exists among the territories and delays have not allowed the Strategy to meet all of the goals it has set, with the consequence that socio-cultural labelling and stereotypes on Roma, Sinti and Travellers (RST) still remain.

The actions that have been enacted to date (National Strategy for RST Inclusion, Health Action Plan for and with the Roma, Sinti and Travellers communities, actions for RST children and adolescents in the 4th Infancy and Adolescence Plan, a national Integration of Roma, Sinti and Traveller children) should lead to mediation among cultures and an increasingly active and knowing participation in the choices that affect Roma families and the entire community.

The Authority conducted an on-site inspection at the Ghetto of the Bulgarians of Borgo Mezzanone in Foggia. At the end of the on-site inspection, 37 children were identified, including a new-born baby and 22 children in the 1-5 year age bracket who were of Bulgarian origin. The children lacked proper clothing despite the cold temperatures, they had never attended school, lived in shacks (which have since been dismantled) without any toilet facilities. There were also two minor girls who were pregnant.

***The Authority for Children and Adolescents wishes that the issue of "nomad" camps will be definitively overcome and the search for housing solutions with the participation of RST communities, will not result in a further repetition of forms of ghettoization; The of schooling policies should be strengthened; the number and training of territorial operators should be increased because they are carrying activities in favour of the RST community, also in order to prevent early marriages and pregnancies; the law on the "ius soli" should be approved.***

### *Measures to ensure the elimination of any form of gender-based discrimination*

The administrative report highlights that several measures have already been taken at the national level, so to fight against stereotypes and discriminations based on differences of gender and sexual orientation. Most of them call for specific educational and awareness-raising programs aimed at developing the appreciation for differences and preventing gender-based violence.

Considered the relevance of the topic, it is distressed the importance to carry out synergic actions to raise awareness and to monitor the activities performed in the implementation of the National



Strategy for the prevention of and the fight against discriminations based on sexual orientation and gender identity 2013-2015 (by the UNAR and the Department of Equal Opportunities), adopted to execute the Recommendation of the Ministerial Committee CM/REC (2010) of the European Council.

*Measures to ensure the elimination of any form of discrimination of detained children*

On 6 September 2016, the Ministry of Justice, the Authority for Children and Adolescents and the "Bambinisenzasbarre" Association signed and renewed a Memorandum of Understanding, previously signed on March 21, 2014, aimed at strengthening and expanding the results so far obtained aimed at fostering the maintenance of relationships between incarcerated parents and their children (both the minors under the age of 18 who go to their children as well as the children living with their parents in prisons) as well as to avoid the negative repercussions on health and school dropouts.

The Protocol "Charter of the Children of Incarcerated Parents" promotes the concrete implementation of the UN Convention on the protection of the rights of the children and adolescents by facilitating and supporting minors in dealing with the parents detained within prisons and by providing adequate formulas for receiving minors in jail.

The Charter also provides for the establishment of a permanent Roundtable to be convened every three months, on the impetus of the Authority, with the periodic monitoring and promotion of co-operation between the actors concerned, in order to facilitate the exchange of good practices, analysis and proposals.

It is important, among other things, to verify the number of interviews that have actually been carried out annually by children and adolescents who have parents in prison, in order to verify the maintenance of family ties, even in the presence of detention, by means of interviews or other forms of distance communication.

It was deemed important that Italian Protocol become known at the international level and for this reason its dissemination was promoted, with it being submitted in English, with a translation by "Bambinisenzasbarre Onlus", to the European Network of Ombudspersons (ENOC), certain that the Italian experience can represent a virtuous model for other countries and raise the level of protection for the children of the incarcerated parents, a particularly vulnerable category and one subject to possible discriminatory attitudes.

*Measures to ensure the elimination of any form of discrimination of children born outside marriage*  
Legislative Implementation Decree No. 154 of 2013 (the so-called reform of filiation), the status of the child is unique, irrespective of the fact that their parents are united or not from the bond of matrimony and the hypothesis in which the child's status arises from an adoption measure.

The jurisdiction for hearing disputes relating to the procedure for the custody of children born out of wedlock has been assigned to the ordinary court and a substantial uniformity of the legal system has been introduced in relation to the custody of the children and the exercise of parental responsibility in the event of a couple's crisis (Article 337 bis et seq. of the Italian Civil Code), as well as uniform proceedings for minors involved in judicial proceedings. There still work that needs to be done in this direction in order to avoid a persistent inequality of treatment resulting from the diversity in the types of legal proceedings (in the judge's chamber and litigation).

As regards Italy's failure to ratify the European Convention on the legal status of children who were born out of wedlock, which was concluded in Strasbourg on 15 October 1975, it should be noted that the rules laid down by the Convention are not only intended to assimilate the legal status of children born out of wedlock to those of children born within a marriage, but also to contribute to the uniformity of the laws of the contracting states in this sector.

As it is well known, the status sector (personal and family) falls within the sphere of sovereignty of the states. As regards status, there are no uniform standards at international level, although there are some studies initiated by the Hague Conference on Private International Law (HCCH) and the International Commission of Civil Status (CIEC). The comparison of the legal systems of the contracting states - the possible development of international conventions on status (for example, see the official website of the International Private Law Conference, the Parentage / Surrogacy Project).

***The Italian Authority for Children and Adolescents deems the participation of Italy in the works promoted by these two organizations to be indispensable.***

#### *Children's participation*

The participation of children and young people in legislative production and political activity is, as described in the Report, through differentiated modalities that make it possible for them to express their opinion, to freely join association, including within school institutions.

However, opportunities to promote the conscious participation of children and young people in the political life of the place where they live and grow should be multiplied. Such participation can not be left to the initiative of a single municipality or a single region that regulates the council of boys and girls, but must be the result of a national planning then customized according to the different contexts, and must become, in this sense, one of the essential levels provided by Art. 117 of the Constitution.

## **4. CIVIL RIGHTS AND FREEDOM**

### **Birth registration and nationality**

To supplement what has been stated in the Government Report, it should be noted that, with Law No. 162 of September 29, 2015, Italy's adherence to the Convention on the Reduction of Statelessness of 1961 was definitively approved, which is a further step forward in overcoming the phenomenon.

The Authority highlights the importance of the Draft Law S. 2092, which facilitates the procedures for access to Italian citizenship for minors of foreign origin born or raised in Italy and is responsible for guaranteeing the right to the integration of the so-called "second generations".

The Draft Law A.S. No. 2092 has been being examined by the 1st Senate Standing Committee (Constitutional affairs) for many months; it is desirable that the bill quickly concludes its own training process. The Authority of Children and Adolescents, aware of the need to adopt a reform of the matter in Italy in order to make it more responsive to the fundamental principles set out in the Convention on the Rights of the Child and Adolescence, has officially urged the resumption of work.

The registration of births is critical to ensuring that children are not denied their rights and remain excluded from health, social and education systems.

As stated in the Government Report, Italian law requires the registration of children at birth, which is achieved by issuing a declaration to be made to the Registrar Officer in the municipality where the child was born or the municipality of the parents' residence or, alternatively, with the healthcare management department of the public or private hospital where the birth took place (Article 30 of Presidential Decree No. 396 of November 3, 2000).

***However, there are potential critical issues for the registration of children born to parents who are in an irregular situation, as it may happen that parents do not present themselves at the registration offices for fear of being identified and eventually expelled.***

## **Freedom of expression and the right to seek, receive and impart information**

*Please see the clusters 4g and 9.*

### **Protection of privacy and protection of image; access to information from a diversity of sources and protection from material harmful to a child's wellbeing**

The Authority initiated and has continued its dialogue with the main organizations responsible for communications.

Within the framework of the National Consultation of Associations and Organizations, a permanent consultation body, which aims to promote the participation of civil society in the activities of the Authority, a working group has been set up regarding the protection of minors in the world of communications in order to favour the definition of the allocation of competences between the Authorities and all other subjects concerned.

*The Authority for the Protection of Children and Adolescents deems it essential to foster and develop cooperation agreements with the Italian independent authorities which also deal with the protection of the rights of minors, given that the law instituting the Authority did not grant it competences and powers in matters of privacy and protection of the image, as it would have been preferable.*

*It is necessary to pursue the objective of ensuring that all children, young people and parents / educators have information and skills that enable them to be protected in the world of communication and to raise awareness among information professionals on the need to guarantee such protection.*

## **6. FAMILY ENVIRONMENT AND ALTERNATIVE ASSISTANCE**

### **Family environment and parental guidance in a manner consistent with the evolving capacities of the child**

*See the part relating to the Family Observatory.*

It does not appear that life-cycle and work-time reconciliation policies have been implemented efficiently enough, which as a matter of fact are the subject of a specific working group within the framework of the reconstituted National Observatory on the Family.

There have been good initiatives undertaken to experiment with innovative intervention models with families of minors who have committed crimes, to prevent forms of removal of minors from families (P.I.P.P.I. Program) and to support parental skills (IV Child and Adolescent Action Plan).

*It is hoped that such initiatives will not remain isolated and that they will find adequate insertion within national strategies that are effectively applied across the country.*

### **Parents' common responsibilities, assistance to parents and provision of childcare services**

There have been advances in favour of families and support for parenting.

*However, it is hoped that the Childhood and Adolescent Plan will be implemented in the context of services from 0 to 6 years and will be implemented in compliance with that foreseen with Law 107/2015, Art. 1 pt. 181, lett. E) regarding the universalization of the child schooling.*

*It is also hoped that family support will be more in terms of offering services than monetizing, or balanced integration between the two measures.*

Promoting legality and, at the same time, tackling school disadvantage is the goal of the project "I am here", launched in 2015 and realized in the European and national area of planning. A direct participation of minors through actions capable of creating a "bridge" between girls and boys and institutions responsible for the implementation of their rights.

### **Separation from parents**

In Italy the law of 21 April 2011, No. 62 is concerned with safeguarding the relationship between children and parents who are in a state of deprivation of personal freedom and tends to balance two opposite interests, the interest in preserving the parent-child relationship, and the interest that the child does not grow up in an unsuitable environment such as prison.

To this end, the law provides that incarcerated mothers, or fathers in detention, should be placed in Attenuated Custodial Institutions for Incarcerated Mothers (ICAMs), which have structural characteristics other than prisons and are better suited to accommodating children. These are structures where a family-friendly attenuated prison system is applied, in which there are no barriers to the windows and there are wardens who do not wear uniforms but dress in civilian clothes.

The same provision provides that the Minister of Justice may enter into agreements with local authorities to identify suitable structures to be used as "Protected Housing Homes" without new or increased public finance expenditures.

According to official data provided by the Ministry of Justice on February 28, 2017, there are 40 incarcerated mothers with children in custody in the Italian prisons, while the number of children living in prisons are 46, of whom only 24 are housed in the Attenuated Custodial Institutions for Incarcerated Mothers.

Currently there are Attenuated Custodial Institutions for Incarcerated Mothers (in Turin "Lorusso and Cutugno", Milan "San Vittore", Venice "Giudecca" and Cagliari).

It is to be noted that in Rome the first Protected Family Homes is about to go into operation.

***It is hoped that the number of Protected Family Homes will increase.***

#### **Family reunification**

See Cluster 9.

#### **Recovery of maintenance of the child**

The fight against poverty aims to guarantee the rights of children and adolescents with a comprehensive management.

It should however be noted, ***that the measure should assume universal value at short period of time and be addressed to all households below the absolute poverty threshold and not just to some families in disadvantaged economic situations based on the ISEE model.***

***It is considered that municipal social services should be further strengthened to allow coordination of take over management actions and those schools should be involved.***

#### **Children deprived of a family environment**

*Minimum criteria and standards for services and care for all alternative care institutions for children deprived of a family*

In the field of minors outside the family home, there have been significant interventions, not only of a regulatory nature, aimed at improving reception methods and spreading the culture of the foster care placement. Particularly appreciated are the "Guidelines for Foster Care Placement" and the "Reception Guidelines for Housing Services for Minors", both assisted by monitoring and implementation interventions.

As a supplement to the aforesaid Report, the recent publication of the fact finding survey on the implementation status of the legislative measures regarding adoption and foster care, prepared by the Parliamentary Commission on Childhood and Adolescence, published in the official Gazette of March 7, 2017. It should also be noted that, in view of the result of the publication in November 2015 of the document "The Protection of Minors in Communities, the first collection of experimental data prepared with the public prosecutors of the Italian Republic in the Juvenile Courts", the Authority for the Protection of Children and Adolescents has continued to monitor the phenomenon of communities of minors outside of the family home, with the survey activities

carried out in conjunction with the twenty-nine juvenile public prosecutors who are present on the national territory.

As for the law of October 19, 2015, No. 173, on the right to the continuity of affection of children and children in foster families, the Authority for Children and Adolescents, within the National Council of Associations and Organizations, established a special working group, which is monitoring application practices.

It should be noted that in order to spread the culture of the foster care and create an operational network in the territory involving and putting into the system all of the actors who for different reasons are called in the foster care placement procedure, the Authority has established a special Working Group, comprised of experts and regional ombudsman, dedicated to the examination and promotion of the institute of foster care.

#### **Adoption (National and between countries)**

*It is hoped that the "Database of Adopted Minors" will be quickly set up, which is necessary in order to ensure a more rapid and transparent definition of the adoption process.*

*The importance should be pointed out regarding the strengthening and enhancing the role played by Social Services and identifying suitable support tools for families, in the post-adoption phase as well.*

#### **Illicit transfer and non-return**

The report recalls Law 18 June 2015, No. 101, published in the Official Gazette of July 9, 2015, which ratified the Hague Conference of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children.

This law has identified the Prime Minister's Office as the Central Authority, pursuant to Art. 29 of the Convention itself: a designation which among other things does not yet appear on the official website of the Hague Conference.

The Italian Authority for Children and Adolescents deems that such a choice may jeopardize the international cooperation mechanism implemented by the "Hague Law" (i.e. the Conventions adopted within the HCCH) in the sector of children and adolescents through the functioning of Central authorities established to facilitate dialogue between contracting states. To date, in accordance with the Hague Convention of 1961 concerning the powers of authorities and the law applicable in respect of the protection of infants, the 1980 Hague Convention on the Civil Aspects of International Child Abduction, as well as (EC) Regulation No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility ("Brussels II bis") and Regulation (EC) 4/2009 on jurisdiction, applicable law, recognition and enforcement of decisions and cooperation in matters relating to maintenance obligations, the Central Authorities designated by Italy are all filed with the Ministry of Justice. The revision of the "Brussels II bis" Regulation should moreover be considered, which, as it is evident from the proposal submitted by the European Commission in June 2016, "takes into account ... international instruments such as the Hague Conventions of 1980 and of 1996".

*The protection Authority hopes that it shall be the Ministry of Justice, and not the Prime Minister's Office to be designated as the central authority for the Hague Convention of 1996 and that, as it has already expressed, a dialogue with the Hague Conference of private international law be accorded the highest due consideration.*

#### **Measures taken to ensure the protection of children with incarcerated parents and children living in prison with their mothers**

*See point 6 (Separation from parents)*

## **7. Disability, basic health and welfare**

*Govern initiatives towards a right-based approach*

The Law 18 of August 2015, No. 134 "Provisions on diagnosing, caring for and enabling people with autism spectrum disorders and family care" is an important novelty aimed at ensuring the protection of health and the improvement of the living conditions of people with these disorders. This law has found its positive completion in the approval of the decree related to the essential levels of assistance, which also inserted the treatment of autism, with an early diagnosis, treatment and customized treatment, integration into social life, and support for families. Equally positive was the approval of the Law 22 June 2016, No. 112 "Provisions on assistance to people with severe disabilities without family support", and whose impact shall be evaluated by monitoring its effective implementation.

However, the drastic cutback of the National Fund for the Non-self-sufficient is quite worrisome and it is hoped that there shall be an increase and a translation into services for families with disabled minor children, who risk associating the need arising from disability with poverty owing to the high costs related to assistance, also of a home type.

***It is therefore hoped that the two-year Action Program for the promotion of the rights and integration of people with disabilities will be fully implemented and that, also thanks to the effective application of the new Essential Assistance Levels, the discrepancies in assistance among the regions and territories shall be overcome.***

*Special assistance to children with disabilities*

The initiatives undertaken undoubtedly offer and more intensive safeguards aimed at preserving the protection and health of the underage minor. It should however be noted, that there are significant inequalities among the various areas of the country, the outcomes of care treatments, in the access to services, the types and the quality of the ensured services: There are also shortcomings in the continuity of care, from the diagnosis to the management of the child, especially for those children with complex problems and needs, and an inadequacy of the prevention actions and, above all, the promotion of health.

Similarly positive is the agreement of the State-Regions Conference: " Directions for the proper application of legislation on health care to foreigners by the Italian Regions and Autonomous Provinces", enacted on 20 December 2012, in order to ensure greater uniformity of the access pathways to health care for the foreign population in Italy.

The agreement includes, among other things, compulsory enrolment of foreign minors in the National Healthcare System even in the absence of a residence permit.

***The application of the regulation needs to be monitored in order to ensure that it takes place equally across the national territory.***

The positive review of the Essential Assistance Levels contained in the Prime Ministerial Decree of (DPCM) of 12 January 2017 and published in the Official Gazette No. 65 of March 18, 2017, is definitely to be welcomed. However, ***the new fixing of the essential levels of services will need in any case to be accompanied by a careful and analytical assessment of the impact on the psychological-physical well-being of underage minors.*** To date, as a matter of fact, our legal system does not foresee adequate ex-post assessment tools of public policies.

**Efforts to address the most prevalent health challenges, to promote the physical and mental health and well-being of children and to prevent and deal with communicable and non-communicable diseases**

The current National Plan for Prevention 2015-2018 promotes the mental well-being of children, adolescents and young people, in particular in relation to substance use, road accidents and chronic diseases. As reaffirmed in the Fourth National Action Plan for Childhood and Adolescence, the responsiveness of healthcare systems needs to be improved in responding to the very varied needs of underprivileged minors.

In as much as Italy is concerned, with differences from one Region to another, and sometimes even within the same region, the waiting times for children with neuro-developmental and mental health problems to be taken in charge by specialist teams, continues to remain overly long.

It should be noted that three different inter-institutional roundtables are currently in place: two at the Ministry of Health (one Roundtable on Psychopharmaceuticals and one roundtable on Child Neuropsychiatry, the latter with the participation of the Regions). The third Roundtable is for the Ministry of Health and the Ministry of Justice - Department for Juvenile Justice and Community Affairs.

Moreover, the protection Authority, within the framework of the National Association of Associations and Organizations, has set up a working group on psychological distress in adulthood with the aim of drawing up recommendations and identifying a desirable treatment model that will guarantee continuity in care.

Lastly the Italian protection Authority takes part in an additional roundtable on troubled children in conflict with the law, who are psychologically or psychiatrically troubled, promoted by the Department of Juvenile Justice and Communities of the Ministry of Justice in the framework of the European project (*Fact for Minors - Fostering Alternative Care for Troubled Minors*) promoted and co-ordinated by the National confederation of socio-educational communities (CNCA).

The protection Authority shall act as a promoter of activities aimed at creating synergies between the different roundtables.

### **Measures to protect children from substance abuse**

In addition to the problem of substance use, no less relevant appears to be the issue linked to new pathological addictions that are increasingly common among young and especially the very young people: among these, Internet addiction, gambling, compulsive shopping, and technological addiction.

There are positive initiatives regarding this matter (such as the recent approval by the Parliament of the proposed cyber bullying draft law prepared to establish educational measures in a promotional-preventive optic), namely the establishment at the Ministry of Health of a fund for the pathological gambling, provided for by the 2016 Stability Law, and aimed at identifying measures to raise awareness-raising campaigns, especially in schools, on risk factors associated with gambling.

*Nonetheless, it is desirable to provide for a national plan or framework law that regulates the gambling phenomenon as a whole and that the implementation of the programs not be entrusted to the individual Regions.*

*It is also desirable to provide for national regulatory measures limiting access to gambling halls (which should not be located near places attended by minors) and to foresee the total ban on advertising of the game.*

It also appears contradictory that on the one hand, the Stability Law of 2016, respectively, paragraphs 936 and 946 respectively, the Government intends, on the one hand, to define (and therefor to judge, to recognize) the characteristics of the public gambling collection points and, on the other, establish a Fund for the prevention of gambling addiction.

## **9. Special protection measures**

*Minors in migratory contexts*

The legislative framework on the procedures for the reception of unaccompanied minors has undergone considerable changes since the entry into force on 30 September 2015 of Legislative Decree No. 142 implementing Directive 2013/33/EU laying down standards for the reception of applicants for international protection and Directive 2013/32/EU on common procedures for granting and withdrawing international protection (Article 19).

In the awareness of the notable efforts made so far undertaken by the Italian State to move from one emergent logic to an orderly system for managing the phenomenon, there appears to be a misalignment between the legislation in word and the corresponding operating and application practices, also in view of the exponential increase in arrivals, in Italy, of unaccompanied foreign minors.

Precisely because of what has been stated above, the Authority has organized in-depth studies with Institutions and experts, including through the convening of a Roundtable on the subject. The results of this, having gathered the necessary information, a note was sent to the institutions concerned, on June 15, 2016, containing some aspects of urgent need to implement a comprehensive, effective and homogenous reception system in the national territory. This was with the aim of protecting and fully implementing the rights and interests of the unaccompanied minors, as provided by international and national legislation on this matter.

The following are the points of intervention required by the Authority.

#### *Steering Committee at a national level*

***The Authority believes that there is a need to provide for a steering committee that has an overall picture of the availability of reception facilities in the area as well as the possibility of overseeing the transfer of children from the first to the second reception level facilities in compliance with the times provided by law with a equitable sharing of the reception of minors on national territory.***

#### *Social services case reports of minors*

***The Authority also considers that it is necessary to provide for the use by the authorities responsible for the reception, of a social services case report of the minor that contains the customized reception plan offered to the same from the first reception phase and that will accompany the child, with all the successive implementations of information, throughout the reception procedure in Italy, providing traceability.***

***It would likewise be desirable for the social services case report to be created in accordance with a unified and shared format, and it may contain all the basic information about the minor child (such as identity, place of reception, healthcare aspects and integration activities carried out).***

#### *Age Assessment*

Most unaccompanied minors are between the ages of 16 and 17.

It would be appropriate, that timely and reliable procedures for age assessment be put in place. Attempts to do so have been launched in recent years in order to develop multidisciplinary and holistic scientific instruments. In this regard, it is noted that on 6 January 2017, the Prime Ministerial Decree No. 234/16 laying down the procedure for determining the age of unaccompanied minors who are victims of trafficking came into force and that on 29 March 2017 the law on protective measures for unaccompanied minors was adopted.

#### *Appointment of a Guardian*

It is necessary to ensure rapid and uniform procedures in Italy with regard to appointing guardians in favour of the unaccompanied minors and the possible transfer of the guardianship resulting from the transfer of a person of under the age of 18.



In order to know the average appointment time, the type of guardian appointed - whether public or private citizen - and the possible existence of rosters of voluntary tutors, the Authority undertook a survey of the functioning of national protection with the collaboration of the Regional Ombudspersons and the Ministry of Justice.

The results of the monitoring showed an average guardians appointment times that were fairly long, of, a considerable use of public guardianships and lawyers, and a scarce use of private volunteer guardians, uneven modalities for the appointment and management of guardianships, with an inevitable fragmentary application throughout Italy.

One step in the direction of private guardianships, is the previously mentioned Law 47 of 7 April 2017 that illustrates the figure of the volunteer guardian.

As already mentioned, this aforesaid recognition activity was indicated, as a positive note, in the report that Ambassador Tomáš Boček, Special Representative of the Secretary General of the Council of Europe for Migration and Refugees, prepared on the reception system for migrants in Italy.

#### *Reception, integration and inclusion*

It seems necessary that the legislation governing this matter be complied with in the operational practice by launching timely individualized inclusion programs for unaccompanied minors.

Data regarding the age is a significant element as concerns the effectiveness of integration policies, particularly in view of the transition phase to adulthood.

#### *Monitoring Inspections*

The protection Authority, with the aim of realizing a concrete verification of interventions aimed at guardianship for minors, launched an inspection program at the active structures that offer the first reception to unaccompanied minors in the territorial settings, in which first reception structures have been activated.

#### ***In the light of the above, the following is recommended:***

The wave of arrivals, which has sorely tried our reception system, must be managed with an organic connection among all the institutional actors assigned to the reception and protection of unaccompanied minors. ***One step forward might be achieved with the effective implementation of the aforementioned law 47/2017 on unaccompanied minors.*** An organic law on the matter, which shortens the reception times (10 days for the identification, 30 instead of 60 for a stay in the first reception centre).

***The protection of the rights of minors must be guaranteed throughout the European Union as well as in countries that are cooperating with the EU in the management of migration flows.***

#### **Minors in conflict with the law, witnesses and victims of crimes**

As regards the Draft Law A.S. 2284, which provides a proposal which, among other measures, aimed at improving the efficiency of civil judicial proceedings, for the abolishment of Juvenile Courts and Juvenile Public Prosecutors in Italy, the protection Authority has not been heard by the Second Senate (Justice) Commission, in the sessions during which the draft law was examined; however it did have bilateral meetings, including that with the chairman of the above-mentioned Commission, in which it examined in depth the subject matter of the bill with the Regional Ombudspersons, with the competent institutions, with experts in the field as well as with associated subjects of the judiciary and attorneys, it created an ad hoc roundtable. Given the importance of the emerging criticisms, the protection Authority has also shared its perplexities with the Minister of Justice, to whom it has filed an official note and has made itself a promoter of an appeal to the Parliament, which it has made known by means a campaign of press releases, published on its own

site and through social media, entitled "No to the Abolishment of Juvenile Courts and Juvenile Public Prosecutors. Yes to a child-friendly justice reform".

The appeal shows that the reform of the civil process approved by the Chamber of Deputies and in discussion with the Senate is likely to weaken the current protection system with a doubly negative effect:

1. The disappearance of the juvenile public prosecutor would result in the risk of a serious dissolution of the baggage of expertise and experience it is carrying. The juvenile public prosecutors do not only have a specialised jurisdiction dedicated to dealing with children in criminal matters, with children who have committed an offence - who must still be re-educated in as much as they involve a personality in development - but also in the civil sphere, in order to protect children and adolescents who find themselves without any adequate parental figure or who are subjected to prejudicial situations. Not to mention the surveillance tasks of communities where minors live outside the family of origin, whose regularity is of crucial importance for the success of the support procedures and to avoid suspects of abuses against weak subjects. We need magistrates who are dedicated exclusively to the protection of children and adolescents, also in order to perform the filtering function as concerns the many instances of troubled childhoods

2. The abolition of the juvenile court and the creation, in place of the abolished courts, of specialized sections of the ordinary court, does not solve the current fragmentation of competences.

### **3. Follow-up to comments made by the Committee on the Rights of the Child on the last periodical report of Italy**

In September 2011, the Committee on the Rights of the Child released its own observations on the latest Italian government report on the basis of Art. 44 of the Convention.

The Committee expressed its concern about the fragmentation of powers and actions concerning childhood, dispersed among a multitude of actors and at various levels, central and regional, hoping that the Government would take on the responsibility of coordinating actions carried out on the Italian territory. In particular, the Committee recommended that the Government reviews and clarifies the role of the National Observatory for Childhood and Adolescence in order to coordinate policies and programs in the field of childhood and adolescence among Ministries and Institutions, at all levels (Paragraph 8). The Committee likewise recommended that the Italian State adopt an effective mechanism to ensure the application of the Convention in all regions by adopting Essential Levels of Social Services- LIVEAS. This point is addressed in Paragraph 3.1, underscoring the coordinating action of the Authority for Children and Adolescents, on account of the fragmentation of institutional competences in the sector of children and the consequent difficulty of coordination.

The Committee has recommended the Italian State to ensure that the newly established Authority for Children and Adolescents to be provided with sufficient human, technical and financial resources to guarantee its independence and effectiveness, as provided in the *General Comment* n. 2 (2002) of the Committee, on the role of independent institutions for human rights and the promotion and protection of children's rights.

The Committee also recommended that Italy ensure a uniform and efficient protection as well as the **promotion** of the rights of minors in all regions, including the coordination of existing regional ombudspersons with the national Authority for Children and Adolescents.

The Authority for Children and Adolescents is heading to the enhancement of a uniform and efficient protection, also through the work of a careful coordination of the activities of the regional ombudspersons through the Conference of Ombudspersons for Children. However, achieving this

goal has been made somewhat difficult by the inadequacy of resources that are attributed to the Authority for Children and Adolescents, as per that which has been illustrated above.

#### **4. Recommendations**

With reference to the application of the New York Convention on the Rights of the Child, please refer to the recommendations set out in the text.

Lastly, the last Italian report submitted to the Committee on the Rights of the Child pointed out that, finally, there is also an Authority in Italy dedicated to guaranteeing and promoting the rights of children and adolescents.

To date, the protection Authority expresses its recommendations, sends notes to the competent authorities, urging action aimed at promoting the rights of the child, with the aim of filling in the gaps that might emerge at the application level and which the Authority has encountered during the course of its own business. These recommendations and policy guideline notes, as well as the proposals, opinions and observations formulated by the Authority may certainly fall under the category of soft law acts. In order to make the action more decisive and therefore effective and efficient in protecting and promoting the rights of the child, it is hoped that the Authority of Children and Adolescents shall be granted real powers (and not only functions), i.e. instruments, including sanctioning ones, that directly affect childhood and adolescent policies in Italy.

While it is true that today, at the current state of affairs, the Authority has a role of *moral suasion* in public institutions, nonetheless it does not appear incisive.

As it has been pointed out, the limitation of the Authority's action is caused by the nature and amount of the human, technical and financial resources available, which currently is totally inadequate and insufficient in order to ensure an effective independence of the Authority itself and an effective and efficient action on behalf of children and adolescents throughout the Italy.

It should be noted that there are currently no other independent Authorities or more generally speaking, State Administrations, in the Italian system that have such a small number of staff, which is altogether inadequate in light of the numerous and delicate tasks that have been assigned to the protection Authority under Art. 3, referred to above.

In November 2016, an amendment to the 2016 Budget Law was introduced, with the proposal to strengthen the organizational structure of the Authority for Children and Adolescents, to increase the number of staff by other ten units, bringing it to twenty units. The numerical increase in staff would not, however, entail a significant increase in the burden on public finances, since the Authority is only required to bear the ancillary remuneration for staff, while the related fixed competences were to be borne by the corresponding public administrations. The aforesaid amendment was declared inadmissible.

It should be likewise pointed out that the increase in the number of staff members, however, meets a minimum requirement: it goes without saying that for an independent Authority that carries out its business in a sensitive sector such as the protection and promotion of children's' and adolescents' rights, the recognition of an "autonomous organizational" role should be welcomed.

The lack of an autonomous role has led to considerable difficulties during human resource recruitment, owing to the long times required for the adoption of secondment measures by certain administrations of origin. These delays led to the Office lacking staff in delicate areas of intervention for some months. As regards the financial resources, please refer to that stated above.

In light of the foregoing, the Authority hopes that real autonomy and independence will be ensured by means of adequate human, technical and financial resources, as well as that it will be granted effective and binding powers to fulfil its multiple competences in a more timely and harmonious manner, in view of a modification in the law establishing it. These resources and powers are all the more necessary in view of new competences attributed to the Authority by recently approved laws, such as Law 47/2017 on unaccompanied minors, which assigns the Authority the task of selecting and training volunteer guardians as well as that of stipulating memoranda of understanding with the courts in those regions without regional ombudspersons.

## **ANNEX 1**

### **Law 12 July 2011, no. 112**

(Published in Official Gazette of the Italian Republic on July 19, 2011, No. 166)  
Establishment of the Authority for Children and Adolescents.

#### **Art. 1.**

(Establishment of the Authority for Children and Adolescents)

1 In order to ensure the full implementation and protection of the rights and interests of minors, in accordance with the provisions of international conventions, with particular reference to the Convention on the Rights of the Child, opened for signature in New York on the 20<sup>th</sup> of November 1989, and enforced by the law approved on the 27<sup>th</sup> of May 1991, no. 176, hereinafter referred to as the "New York Convention", to the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), signed in Rome on the 4<sup>th</sup> of November 1950 and enforced by the law approved on the 4<sup>th</sup> of August 1955, no. 848, and the European Convention on the Exercise of Children's Rights, signed in Strasbourg on the 25<sup>th</sup> of January 1996 and enforced by the Law no. 77, as well as the law of the European Union and the current national constitutional and legislative provisions, the Authority of Children and Adolescents is established, hereinafter referred to as the "Authority", which exercises the functions and duties granted to it by this law, with autonomous organizational powers, with administrative independence and without any hierarchical subordination.

#### **Art. 2**

(Modalities for appointment, requirements, incompatibility and remuneration of the Authority's director)

1. The Authority is a monocratic entity. The director of the Authority is chosen among people of well-known independence, undisputed morality and specific and proven professionalism, expertise and experience in the field of the rights of minors, as well as the family and educational issues and the promotion and protection of minors, and is appointed with a determination adopted by the Speakers of the Chamber of Deputies and the Senate of the Republic.
2. The director of the Authority shall hold office for 4 years and his/her mandate is renewable one single time.
3. For the entire term of the office, the director of the Authority may not, under the penalty of expiration, exercise any professional, business or advisory activity, he/she may not be a director or employee of public or private bodies nor hold other public offices of any kind nor hold elective offices or assignments in associations, non-profit organizations of social utility, professional orders, or anyway in any organizations that carry out activities in the fields of childhood and adolescence. If he/she is civil servant, according to the legal system of the organization, his/her professional role shall be suspended or placed on unpaid leave for the duration of the mandate. The director of the

Authority may not hold any offices or have any official responsibilities, political parties or movements of political inspiration during the term of office.

4. The director of the Authority shall be paid remuneration for his/her office equal to the annual economic remuneration due to a Director of a Department of the Prime Minister's Office and, in any case, within the limits of the expenses authorized pursuant to the Article 7, comma 2.

### **Art. 3.**

(Competences of the Authority. Institution and duties of the National Conference for the Rights of Children and Adolescents)

1. The Authority is attributed the following competences:

- a) Promote the implementation of the New York Convention and other international instruments on the promotion and protection of children's and adolescents' rights, the full implementation of the existing European and national legislation on the promotion and protection of children and adolescents and the right of a minor child to be received and educated primarily in his or her own family and, if necessary, in another support or foster family environment;
- b) Exercise the functions set out in Article 12 of the European Convention on the exercise of the rights of the child, opened for signature in Strasbourg on 25 January 1996 and enforced by Law no. 77;
- c) Collaborate in the international networks of Ombudspersons for children and in the activities of international organizations and institutes for the protection and promotion of their rights. It also collaborates with organizations and institutes for the protection and promotion of the rights of minor children belonging to other countries;
- d) Ensure suitable forms of consultation, including those of minor children and those of family associations, with particular reference to associations active in the field of foster care and adoption, as well as cooperation with all international organizations and networks, The organizations and institutes for the promotion and protection of children and adolescents operating in Italy and in other countries, with associations, with non-governmental organizations, with all other private actors involved in the protection and promotion of the rights of children, as well as with all subjects who are interested in the attainment of the aims of the protection of children's rights and interests;
- e) Verify that minor children are ensured equal opportunity in the access to medical care and the exercise of their right to healthcare and equal access to education is guaranteed to minor children, even during their stay and in periods of medical treatment;
- f) Express its own opinion on the national action plan for the protection of the rights and development of persons in the developmental age, as provided for in Article 1 of the Regulation, as set out in the decree of the President of the Republic of 14 May 2007, no. 103, in the terms and with the procedures established by Article 16 of Law no. 241, and subsequent amendments, before its transmission to the Parliamentary Commission for Childhood and Adolescence pursuant to Article 1, paragraph 5, of the aforementioned Regulation referred to in the decree of the President of the Republic no. 103 of 2007;
- g) Report to the Government, to the Regions or local and territorial entities concerned, within the sphere of their competence, all appropriate initiatives to ensure the full promotion and protection of the rights of children and adolescents, with particular reference to family law, education, training and to health;
- h) Report to the competent judicial authorities and bodies in emergency cases, the presence of minor children who have been abandoned for the purpose of their being taken in charge by the competent authorities;
- i) express its own opinion on the report that the Government regularly submits to the Committee on the Rights of the Child pursuant to Article 44 of the New York Convention, to be attached to the report itself;

- l) formulate observations and proposals on the identification of the essential levels of services concerning social and civil rights concerning minors, as per Article 117, paragraph 2, letter m) of the Constitution, and oversees compliance of the levels of the same;
- m) disseminate knowledge of children's and adolescents' rights, promoting at the national level, in collaboration with institutions and institutions dealing with minors, initiatives to raise awareness about and disseminate the culture of childhood and adolescence, aimed at the recognition of minors as subjects holding rights;
- n) disseminate practices or memoranda of understanding prepared by the State administrations, local and regional entities, professional orders or administrations dedicated to carrying out social-welfare activities, which concern the rights of minors, including through periodical consultations with the authorities or administrations indicated; it can likewise spread good practices that have been experimented with abroad;
- o) Encourage the development of the culture of mediation and of any institution, which is capable of preventing or resolving conflicts of agreements involving children, by stimulating the professional training of the operators of the sector;
- p) Submit to both Houses of Parliament by the 30th of April of each year, having obtained the opinion of the National Conference on the Guarantee of the Rights of the Children and Adolescents referred to in Paragraph 7, a report on the activities carried out with reference to the previous calendar year.
2. The Authority shall exercise the powers set out in this Article in accordance with the principle of subsidiarity.
3. The Authority may express opinions to the Government on the draft laws of the Government itself, as well as on the draft laws under examination by both Houses of Government and the Government's legislative acts concerning the protection of the rights of children and adolescents.
4. The Authority promotes, at the national level, studies and research on the implementation of the rights of children and adolescents, using the data and information provided by the National Observatory on the Family referred to in Article 1, paragraph 1250, of the Law no. 296, and subsequent amendments to the National Observatory for Childhood and Adolescence, as provided for in Articles 1 and 2 of the Regulation referred to in the Decree of the President of the Republic of 14 May 2007, no. 103, of the National Centre for Documentation and Analysis for Childhood and Adolescence, provided for in Article 3 of the aforementioned Regulation as per Decree of the President of the Republic no. 103 of 2007 and of the Observatory for the Fight against Paedophilia and Child Pornography, referred to in Article 17, paragraph 1-bis, of Law no. 269. The Authority may furthermore request specific research and inquiries be carried out by the bodies referred to in this paragraph.
5. The Authority, in the performance of its duties, shall promote the appropriate synergies with the Parliamentary Commission for Childhood and Adolescence referred to in Article 1 of Law no. 451, and subsequent amendments, and make use of the reports submitted by the same Commission.
6. In accordance with the competences and organizational autonomy of the regions, the autonomous provinces of Trento and Bolzano and local autonomies in the field of active child and adolescent support policies, the Authority shall ensure appropriate forms of cooperation with regional ombudspersons for children and adolescents or similar figures that regions may establish with the same requirements for independence, autonomy and exclusive competence in the field of children and adolescents foreseen for the Authority.
7. For the purposes as set forth in paragraph 6, without any new or increased expenditures for public finances, the National Conference on the Protection of the Rights of Children and Adolescents, hereinafter referred to as the "Conference", is overseen by the Authority and comprised of regional ombudspersons for children and adolescents, or by similar figures, where they have been established. The Conference is convened on the initiative of the Authority or at the request of the majority of regional ombudspersons for children and adolescents, or similar figures.

8. The Conference, in the respect of the competences of the State and of the regions, performs the following tasks:

a) Promotes the adoption of common lines of action by regional ombudspersons or similar figures on the protection of the rights of children and adolescents, to be implemented at regional and national level and to be promoted and supported at international level;

b) Identifies forms of constant exchange of data and information on the status of minors at the national and regional level.

9. The Authority shall report abuses to the Public Prosecutors in the Juvenile Court having the appropriate jurisdiction, which may have a criminal importance or activities for which the Public Prosecutor's Office can adopt initiatives for cases falling under its own remit.

10. The Authority shall also examine, including by office, general and particular situations which it has come to know about in any possible way where it is possible to detect the violation or the risk of violation of the rights of minors, including those relating to the means of information, possibly reporting to those organization to which the powers of control or sanction have been attributed.

11. The Authority may make observations and proposals for the prevention and fight against the abuse of children and adolescents in relation to the provisions of Law 11 August 2003, no. 228, Measures Against Trafficking in Persons, and Law No 6 of 2006, no. 38, laying down provisions on the fight against the sexual exploitation of children and child pornography including that on the Internet, as well as the risks of organs and female genital mutilation in accordance with the provisions of Law no. 7, laying down provisions for the prevention and prohibition of female genital mutilation practices.

#### **Art. 4.**

(Information, inspections and controls)

1.

The Authority may make requests to public administrations as well as to any public entity, including the International Adoption Commission referred to in Article 38 of Law no. 184, and subsequent amendments, and the Committee for Foreign Minors provided for in Article 33 of the Consolidated Law on Immigration Rules and Standards on the Status of a Foreigner, as per Legislative Decree no. 286, and subsequent amendments, and to any private body to provide relevant information for the protection of minors, in compliance with the provisions of the Personal Data Protection Code, as per Legislative Decree 30 June 2003, no. 196.

2. The Authority may make requests to the competent Administrations to access data and information, as well as to conduct visits and inspections, in forms and arrangements agreed upon with the same authorities, at public or private facilities where there are minor children.

3. The Authority may likewise also make visits to the places referred to in points (b), (c), (d) and (e) of paragraph 1 of Article 8 of the regulations laid down in Legislative Decree no. 272, subject to the authorization of the supervising magistrate for minors or of the judge who is following the cases.

4. The Authority may make requests to subjects and for the purposes specified in paragraph 1 to access databases or archives, in compliance with the provisions provided for in the personal data protection code, as provided for in Legislative Decree 30 June 2003, n. 196.

5. The proceedings falling under the remit of the Authority shall be carried out in accordance with the principles established by Law no. 241 on access, participation and transparency.

#### **Art. 5.**

(Organization)

1. The Office of the Authority for Children and Adolescents, hereinafter referred to as the "Office of the Authority", placed under purview of the Authority, comprised pursuant to Article 9, paragraph 5-Ter of the Legislative Decree 30 July 1999, no. 303, of employees of the Minister's departments or belonging to other public administrations, in position of mandatory secondment, in the maximum number of ten units and, in any case, within the limits of fund resources referred to in

paragraph 3 of this Article, one of which shall be at a level of non-general executive manager, possessing the expertise and professional qualifications required in relation to the functions and characteristics of the Authority's independence and impartiality. The executive managers of the Office of the Authority are bound by the obligation of professional secrecy.

2. The regulations concerning the organization of the Office of the Authority and the location where the Office has its legal headquarters, as well as those governing the management of expenses, shall be adopted within 90 days of the date of entry into force of this law, with the Ministerial Decree, upon the Authority's proposal. Without prejudice to the organizational autonomy and administrative independence of the Authority, the legal headquarters and the premises allocated to the Office of the Authority are made available by the Prime Minister's Office without any new or increased public-sector expenditures.

3. Expenditures for the performance of the duties referred to in Article 3 as well as for related and instrumental activities and for the functioning of the Office of the Authority shall be charged to a fund allocated to that end in the budget of the Prime Minister's Office and recorded in a special forecast unit on the basis of the Prime Minister's Office same budget.

4. The Authority disposes of the fund referred to in Paragraph 3 and is subject to ordinary accounting controls.

#### **Art. 6.**

(Forms of Protection)

1. Anyone may contact the Italian Authority for Children and Adolescents, including by means of toll-free telephone numbers, for reporting violations or situations of risk of violating the rights of minors.

2. The procedures and modalities for submitting the reports as per Paragraph 1 shall be determined by the Authority without prejudice to the competencies of the territorial services and ensure the ease of access to the Office of the Authority, including by means of telematic instruments.

#### **Art. 7.**

(Financial Coverage)

1. The expenditures arising from the implementation of Article 5 of this Law, amounting to 750,000 Euro for the year 2011 and 1,500,000 Euro starting from 2012, 750,000 Euro for the year 2011 is provided for by means of a corresponding reduction in the authorization of expenditure referred to in Article 19, paragraph 3, of the decree-law of 4 July 2006, no. 223, converted, with modifications, by Law no. 248, as restated by Table C annexed to Law 13 December 2010, no. 220 and to 1,500,000 euros from 2012, by a corresponding reduction in the projections for the years 2012 and 2013 of the allocation of the special part of the current part entered, for the purposes of the 2011-2013 three-year budget, within the framework of the "Reserve and Special Funds" program of the "Funding Shares" mission of the draft estimate of the Ministry of the Economy and Finance for the year 2011, for the purpose partly using the reserve related to the same Ministry.

2. To the expenditures arising from the implementation of Article 2, paragraph 4, of this Law, equal to 200,000 Euros annually starting from 2011, it is provided for, for the year 2011, by means of a corresponding reduction in the expenditure authorization pursuant to Article 19, paragraph 3 of Decree-Law no. 223, converted, with modifications, by the Law no. 248 and from 2012, by means of a corresponding reduction in the forecasts for the years 2012 and 2013 of the allocation of the special fund of current part entered for the purposes of the three-year budget for 2011-2013 under the program "Reserve and Specials Funds" of the "Funds to be Shared" mission of the draft estimate of the Ministry of the Economy and Finance for the year 2011, for the purpose partly using the reserve related to the same Ministry.

3. Without prejudice to that provided for in paragraphs 1 and 2, no new or increased expenditures shall be borne by the public finance arising from the implementation of this law.



4. The Minister of the Economy and Finance is authorized to make, with his or her own decrees, the necessary budgetary changes.

## ANNEX 2

DECREE OF THE PRIME MINISTER 20 July 2012, no. 168 Regulation governing the organization of the Office of the Authority for Children and Adolescents, the legal head office and management of expenses pursuant to Article 5, paragraph 2, of Law no. 112

### THE PRIME MINISTER

Having regard to Law 23 August 1988, no. 400, and subsequent amendments, containing the "Regulation of the Government's Activity and legal system of the Prime Minister's Office", and in particular Article 17, paragraph 3;

Having regard to Law 12 July 2011, no. 112, entitled "The Establishment of the Authority for Children and Adolescents", and in particular Article 5, paragraph 2, which provides for the adoption of a decree of the Prime Minister on the proposal of the Authority, to regulate the organization of the office, where the legal headquarters is office is located, as well as the management of the expenses;

Having view to Law 31 December 2009, no. 196, and subsequent amendments, containing the "Law of Public Sector Accounting and Finance";

Having regard to the Legislative Decree of June 30, 2011, no. 123 and in particular Articles 2, 2, 19, 20 and 21;

Having regard to the Decree of the Prime Minister of 22 November 2010 containing the "Regulation of the financial and accounting autonomy of the Prime Minister" published in the Official Gazette no. 286 of 7 December 2010;

Having regard to the determination adopted in agreement reached by the Speaker of the Chamber of Deputies and the Speaker of the Senate on 29 November 2011, with which Vincenzo Spadafora is appointed as the directors of the Authority for Children and Adolescents;

Having heard the opinion of the Council of State, expressed by the Consultative Section for legislative matters at the meeting of 21 June 2012;

Upon the proposal of the Authority for Children and Adolescents;

Decrees:

Chapter I

Organization

Art. 1

Definition

1. In this decree, are denominated: a) "law": the law of 12 July 2011, no. 112, that established the Authority for Children and Adolescents; (b) "Authority" means the Authority for Children and Adolescents established pursuant to Article 1 of the Law; (c) "Office" means the Office of the Authority for Children and Adolescents established pursuant to Article 5 of

the Law; (D) " Coordinator of the Office " means the non-general executive level unit as referred to in Article 5 of the law; (E) "Conference" means the National Conference on the Protection of the Rights of the Child and Adolescents established pursuant to Article 3 (7) of the Law; (F) "Consultation" means the National Consultation of Associations and Organizations referred to in Article 8 of this Decree; (G) "Consultative Commissions": the commissions referred to in Article 9 of this Decree.

## Art. 2

### The Authority Director

1. The Authority Director in compliance with the competences provided for in Article 3 of the law: a) determines the policies and general criteria that form the basis of the office's objects and programs to be implemented and verifies their implementation; b) adopts the programming document, the estimated operating budget and the financial account; c) adopts the Code of Ethics of the Office, which sets out the guiding principles of the Authority's conduct, office components, and all subjects who, for any reason, cooperate with the Authority.

## Art. 3

### Headquarters of the Office

1. The office has its headquarters in Rome.
2. The Authority director, can, with his/her own deliberation, establish temporary units in order to carry out tasks or to pursue objectives in the short term, without any new or increased expenditures to be borne by the public finance,

## Art. 4

### Composition of the Office

1. The office, which is placed under the purview of the Authority director, is comprised of personnel who meet the requirements of Article 5, paragraph 1, of the law, within the limits set by it.
2. The Authority director may make use of consultants and experts possessing adequate and proven professional expertise, within the limits of funding resources referred to in Article 5, paragraph 3 of the law.
3. In relation to the organizational needs of the office, the Authority director in compliance with the applicable legislation may stipulate special agreements for carrying out professional training and orientation courses with specialized schools, university faculties, educational institutions of every order and degree, councils or boards of professional orders, or any other, national or international institution or organization, that pursues ends that are in accordance with the competences attributed to the Authority.
4. In order to facilitate the exchange of experience and the dissemination of good practices, included those experimented abroad, in the sectors of competence, the Authority may make use of,

through the conclusion of special agreements within the limits of fund resources referred to in Article 5, Paragraph 3, of the Law, personnel who are working in public institutions, organizations or associations, be these public or private, national or international, dedicated to the protection of the rights of children and adolescents.

## Art. 5

### Organization of the Office

1. The organization of the office is inspired by the following principles: (a) efficiency, effectiveness, cost effectiveness and transparency of administrative activity; (b) the forecast of stable functions within the framework of an organization that is flexible and adaptable to changing circumstances, changing needs; c) integration and full cooperation among the functions.
2. The non-general executive level unit as per Article 5, paragraph 1, of the law, shall assume the functions of office coordinator.
3. The Office Coordinator shall: (a) oversee the implementation of the Authority's provisions and the implementation of the programs and the objectives, coordinating and directing the activities of the staff dedicated to these activities; b) draws up the balance sheet and its related explanatory notes, as well as the financial account; (c) carry out the tasks delegated by the Authority and, in particular, the contractual powers relating to works and the supply of goods and services and expenditure in the context of budgetary appropriations; d) provide the Authority with complete and timely information on the overall activity of the office.
4. The Authority director, with his/her own deliberation, shall establish the modalities of organization and allocation of the internal responsibilities of the office.

## Art. 6

### Juridical treatment and remuneration of the Authority Director and Office Personnel

1. The Director of the Authority shall be awarded an annual remuneration equal to the annual remuneration granted to the Head of a Department of the Prime Minister's Office. This remuneration may not exceed € 200,000 per year.
2. To the personnel of the Office shall, as far as this is compatible, be applied the provisions on the legal and economic status of the staff of the Prime Minister's Office, including those working under current collective bargaining agreements.

## Art. 7

### National Conference for the Rights of Children and Adolescents

1. The Director of the Authority presides over the Conference pursuant to Article 3, paragraph 7, of the law, convenes its meetings, establishes the order of the day and directs its work.
2. The Conference meets at least twice a year upon the convening by the Authority and meets in extraordinary sessions, whenever at least half of its entitled members request that to do so. The meetings are deemed to be valid with the participation of at least half plus one of the members themselves. The resolutions adopted pursuant to Article 3, paragraph 8 (a) of the

law are approved by the Conference by unanimity of the members present at the assembly. The Conference may, with the majority vote of the present, establish temporary working groups in order to examine specific issues in depth, to which subjects who are outside the Conference may take part.

## Art. 8

### National Council of Associations and Organizations

1. The National Council of Associations and Agencies for the Promotion and Safeguarding of the rights of Children and Adolescents is established without any new or increased expenditure by public finances. The Council meets at least twice a year at the Authority's headquarters.
2. The associations and organizations that make up the Council are identified by the Authority among the associations and organizations that demonstrate that they continuously carry out their activities in the sectors of children and adolescents. The Authority defines the operating modes and procedures.
3. Particular attention is given to associations and organizations that actively promote children and adolescents being heard and participating in decisions that affect them in the conduct of their activities.
4. During the year, the associations and organizations that make up the Council may request an extraordinary convocation. In this case the request must be signed by at least half of the participants.

## Art. 9

### Consultative commissions

1. The Authority may make use of the collaboration of advisory committees established without any new or increased expenditure to be borne by public finances, for the analysis of specific issues of particular interest.
2. The commissions are appointed by the Authority and made up of representatives of public and private institutions, associations responsible for the protection of the rights of minor children and their family members, social forces, voluntary associations, professions, as well as of qualified experts in the subjects covered by the consultation. The Authority defines the operating modes and procedures.
3. Representatives of children and adolescents may be represented in the commissions' work, who have been identified by the Authority or indicated by the subjects referred to in Paragraph 2.
4. The commissions may formulate proposals on issues to be included on the order of the day as well as provide contributions on the Authority's activities.
5. The Authority director, on the basis of the concrete objectives to be achieved on a case-by-case basis, shall identify the institutions, associations or professional categories to be convened to the commission's meetings.

## Art. 10

### Reporting Modalities

1. An electronic mailbox shall be set up in the office, or, comparable telematic instruments, to which anyone may forward reports of violations or situations of risk of violation of the rights of minors, in compliance with current legislation regarding the confidentiality of personal data pursuant to Legislative Decree no. 196.
2. The Authority may establish stable collaboration modalities for the connection with public and private entities, who manage the telephone numbers of public utilities that are free of charge.
3. Reporting procedures shall be standardized by means of a special memorandum of understanding between the Authority and the regional ombudspersons.

## Chapter II

### Financial, administrative and accounting management

## Art. 11

### Financial autonomy

1. The Authority's activities are founded on the principles of cost planning and prudent assessment of revenues and are based on efficiency; cost effectiveness, affordability and transparency criteria.
2. In the implementation of Article 1 of the Law, the Authority shall, in accordance with the provisions of the decree of the President, autonomously arrange for management of the financial resources necessary for its institutional purposes in accordance with the provisions contained in the Prime Minister's of November 22, 2010 that are compatible with them.
3. The office shall have an organizational and accounting autonomy within the limits of its own financial and economic resources and those established by Article 5 of the Law. The management of these resources may be delegated to the Office's coordinator.

## Art. 12

### Preparation of the estimated operational budget

1. Within the 31st of October of the previous financial year, the coordinator of the Office shall draw up the estimated operational budget, on the basis of the objectives and programs to be carried out in the reference year, as identified in the programming document referred to in Article 2 1 (b), and submit it to the Authority, together with the explanatory note, which shall approve it by the 30th of November.
2. The Authority director may authorize the provisional operating budget within the limits and in accordance with the modalities provided for by current law for the state budget.
4. The Authority director shall communicate the estimated operation budget to the Speakers of the Chamber of Deputies and the Senate within fifteen days of its approval.

5. Within the 15th of December, the estimated operational budget shall be submitted through the Secretary General of the Prime Minister's Office, to the Court of Auditors and to the Ministry of Justice for publication in the Official Gazette.

#### Art. 13

##### Structure of the estimated operational budget

1. The estimated operational budget is constituted for the revenues and expenditures by a single Administrative Responsibility Centre.
2. The revenues of the Office shall consist of: (a) the ordinary financial contribution of the State; b) assignments and contributions from public administrations and non-profit private entities, for the execution of specific initiatives; (c) contributions from the European Union or other international bodies for participation in programs or projects; d) activities of assistance and of professional training commissioned by public and private institutions, both national and foreign, as well as by international organizations; e) any other entry related to the activity of the Authority or provided for by the legislation ; (f) presumed surplus; G) revenues from clearing entries.
3. The revenues from the State budget to cover the expenditures referred to in Article 7 (1) and (2) of the Law, entered in a specific base forecasted budget unit of the Prime Minister's Office, flow into the Office's budget. Those sums, intended for the Authority, that have not been committed as of the closure of the financial year on the budget of the Prime Minister's Office shall upon the request of the Authority, be carried forward to the corresponding items of the budget for following financial year.
4. The available amounts ascertained as of 31 December 2011 regarding Chapters no. 523 and n. 524 of the Administrative Responsibility Centre no. 15 "Policies for the Family" of the Prime Minister's budget shall be stated, in addition to the corresponding chapters of the 2012 financial period shall be entered into the Authority's budget.
5. Expenditures are functionally divided into macro-aggregates and, for the purposes of management and reporting, are broken down into chapters according to the subject of the expenditure.
6. Expenditures may not exceed total revenues.
7. Revenues and expenses for clearing entries must have exact matching accruals.

#### Art. 14

##### Multi-annual budget

1. The multi-annual budget, that is attached to the annual budget, only prepared in terms of correspondence of the entries, is for a period of three years and is updated annually. It translates into financial terms the strategic lines, objectives and programs of activities identified by the Guarantor in the programming document referred to in Article 2 (1) (b).
2. The multiannual budget is not subject to specific approval and shall not entail any authorization to collect the revenues and to implement expenditures.

## Art. 15

### Surplus for the financial period and administration surpluses

1. The operating surplus consists of the algebraic sums of available amounts that have not been committed and by the increased or reduced assessments of revenues.
2. The surplus of administration is constituted by the algebraic sum given by the operating surplus and the surpluses carried forward from previous financial periods.
3. The surplus may be utilized to achieve a balanced budget.
4. Upon a well-motivated request from the Office Coordinator, the Authority director may decide to carry forward the uncommitted available sums remaining at the close of the financial year, in addition to the appropriations allocated to the new estimated operational budget. This carrying forward shall in any event be performed no later than the financial period following that in which the appropriation was been entered in the budget for the first time.
5. The Authority director shall, after fulfilling the requirements set out in Paragraph 4, transfer the surplus to the reserve fund.

## Art. 16

### Reserve Fund

1. A reserve fund is entered into the estimated operational budget to be used during the financial period for requirements arising from new or increased expenditures.
2. Withdrawals from the reserve fund shall be made by the Authority director, by means of the corresponding increase in appropriations for other spending items, i.e. the setting up of financial allocations to newly instituted items.
3. Payment orders may not be issued using the reserve fund

## Art. 17

### Budget Variations

1. Budget variations may be authorized by the Authority director, upon the well-founded proposal of the Office Coordinator
2. The variations for new or increased charges can only be approved with adequate financial coverage, which can be also be constituted by using the administration surplus.
3. Transfers in the management of residual accounts are forbidden as well as the in the management of residual and accrual accounts.

## Art. 18

### Approval of the financial account



1. The financial account, prepared by the Office coordinator, is approved by the Authority director within the 30th of April and it includes the results of budget management of revenue and expenditure, distinctively for accrual accounts and residual accounts.
2. The financial account is accompanied by a report from the Authority director where the overall management results are shown, in correlation with the financial planning.
3. The Authority, within the first ten days starting from the approval, communicates the financial account and the report to the Speakers of the two Houses
4. The financial account and the report are submitted, by means of the Secretary General of the Prime Minister's Office, to the Court of Auditors and the Ministry of Justice for the publication on the Official Gazette.

#### Art. 19

##### Active and passive residuals

1. With the approval of the financial account, the Authority director ensures, for each item, those sums to be retained in a residual account for commitments relating to the financial period that has been completed, on the basis of juridically approved obligations and recorded in the financial records of its Office.
2. The active and passive residuals that result from the accounting records referred to in Article 27 are separate for the financial years in question.
3. The management of the active and passive residuals of each financial period shall be carried forward to the corresponding items of the following financial period, separately from the related accrual.
4. The passive residuals shall be eliminated when it has been ascertained that the legal requirements have not been fulfilled regarding the commitment of expenditure owing to the expiration of the term foreseen in relation to the nature of the original obligation.

#### Art. 20

##### Management of the revenues

1. The revenue is verified when the Office Coordinator, verifying the reason for the claim as a receivable and the liable subject, records the amount of the credit as an accrual for the financial period.
2. The ascertainment of the revenue results in a registry in the accounting records referred to in Article 27, with the entry in the relevant revenue item.
3. The revenues shall be collected by the credit institution that manages the cash service, on the basis of a special convention, pursuant to Article 24, paragraph 1.

#### Art. 21

## Commitment

1. On the basis of juridically approved obligations, the commitment determines the amount of the expenditure, the recipient, and its registration in the items of the budget.
2. The commitment is attributed to the relevant item in relation to the type of expenditure and may not exceed the appropriation.
3. The expenditure commitments are assumed by the Authority director or, by virtue of his/her delegation, by the Office's coordinator.
4. Upon the closure of the financial period on the 31st of December, no commitment can be assumed for the expired period.
5. Whenever the expenditure is ascertained at the same time as the payment, the payment and the payment order take place contemporaneously.
6. At the moment of approval of the budget, the commitment on the appropriations relating to the following expenditure shall automatically be made: (a) the remuneration to be paid to the director of the Authority; b) the expenditures due on the basis of existing contracts, as well as statutory or regulatory provisions.

## Art. 22

### Settlement

1. The Authority director or, for his or her delegation, the Office's coordinator shall provide for the settlement on the basis of original invoices and documents proving the fulfilment of the obligation agreed upon, including for tax purposes, after verifying the regularity of the service performed and compliance with the quantitative and qualitative requirements, the terms and conditions agreed upon and after applying the penalties provided for in the case of delayed or incorrect performance.
2. The settlement decree shall contain: (a) the reference to the commitment decree, except as provided for in Article 21 paragraph 5; b) the financial period, the item and the details of the modalities of payment; c) the indication of possible other payments made to the same commitment.
3. The settlement disposition, together with the supporting documents of the expenditure, as well as the documentation attesting the positive outcome of the performance verifications, shall be kept attached to the extinguished payment order.

## Art. 23

### Ordering by means of payment orders

1. Ordering is provided for by the Authority director or, of his/her delegation, by the coordinator of the Office by means of payment orders.
2. The order of payment shall contain the following essential elements: (a) the financial period of origin and the management of the expenditure; b) the commitment to which the expenditure is related and the relevant item; c) the description of the expenditure; d) the progressive number per

financial period and by budget item; e) personal data, VAT number and tax code of the creditor; f) the gross and net amount to be paid in figures and letters, the date of issue and the date of payment; g) the extinguishing of the expenditure.

3. The provisions pursuant to Article 2, paragraph 4-ter, letters a), b) and c) of Decree-Law no. 138 of 2011, converted, by Law no. 148 of 2011 and subsequent amendments, and the provisions of the General Accounting Regulations of the State relating to theft, loss or destruction of payment orders shall be applied

#### Art. 24

##### Payments in general

1. The cash service is entrusted to companies authorized to exercise banking activities, on the basis of a specific agreement stipulated in accordance with the procedures laid down by the current law on public service contracts. The modalities for the performance of cash services are consistent with the provisions on the single treasury referred to in Law 29 October 1984, no. 720, and subsequent modifications.

2. In the cases provided for in Articles 25 and 26 payments may be made by credit card.

3. Payments shall be made in accordance with the laws, regulations and general administrative acts. Temporary arrangements may also be provided by the contract, whenever the terms and conditions are more favourable to the Office, which must be expressly indicated by the contract.

4. In the case of membership contracts, the payment may be made before the start of the service, if it is necessary for its performance.

#### Art. 25

##### Payments by means of credit card

1. The Authority director may be provided with a credit card throughout the entire duration of the mandate, in accordance with the current modalities of use as contemplated by the law and regulations.

2. The Authority director, may by means of his/her own deliberation, provide for the assigning of a credit card as per Paragraph 1 to the office coordinator, who has been authorized to exercise spending power, with specific indications on the types of expenses allowed.

3. At the moment of the delivery as well as upon the restitution of the credit card, as a special report is compiled. The recipient is supposed to provide the office with a monthly summary of the use of the credit card together with the supporting documentation for the accounting payments to be made by the 20th day of the following month.

4. In case the credit card also functions as an Automatic Teller Machine, the sums withdrawn are only usable for expenses foreseen in the deliberation of assignment.

5. The possible payments in cash cannot exceed the amount of one thousand Euros and must be communicated in the framework of the summary report as per Paragraph 3 producing the appropriate supporting documentation.

6. Should there be any payments for expenses that are not traceable to the allowed categories, the same may not be borne by the Authority's budget. In this case, the office shall provide to recover the expenditures.

7. The expenditures made are to be allocated to various budget items, on the basis of the financial reports or bank statements.

#### Art. 26

##### Petty cash service

1. The Authority director may decide to set up an internal cash fund of no more than 3 thousand Euros that can be restored during the year. This amount includes one thousand and five hundred Euros for recharging a prepaid credit card.

2. With the cash fund referred to in paragraph 1, small payments shall be made, in cases of emergencies, for office related items, postal services, small purchases, repairs and maintenances, transport on national territory, the purchase of newspapers and periodicals, travel and mission expenses, and other outlays, however, related to ordinary management whenever it is not possible to provide for an ordinary order of payment.

3. The person who is placed in charge administering the petty cash shall be appointed by the Office Coordinator, in compliance with the guidelines laid down by the Authority Director, on the basis of sufficient professional and administrative capacity for a period not exceeding three years. The assignment is renewable once and can be held concurrently with that of the consignee.

#### Art. 27

##### Accounting records

1. The financial records reveal the situation of the assessments and commitments in respect to the relevant forecasted operational costs, as well as the sums collected and paid and those that remain to be collected and paid.

2. The economic and financial records reveal the value of the assets at the beginning of the financial period, the variations that have taken place during the management, as well as the amount of assets at the close of the financial period.

3. The accounting records and the financial statement formats are approved with the deliberation of the Authority Director.

#### Art. 28

##### Control of the administrative-accounting regularity

1. The administrative and accounting regularity of the acts entailing expenditures be exercised by a board of statutory auditors whose members, in accordance with the requirements of Article 21 of Legislative Decree no. 123, are appointed by the Authority Director's deliberation and shall remain in office for three years, and whose assignment may only be renewed only once.

2. The Board of Auditors shall be composed of three members, one with the function of chairman appointed by the President of the Court of Auditors among magistrates currently in office and two appointed respectively by the Prime Minister and the Minister of the Economy and Finances.

3. The Board of Auditors shall perform the tasks referred to in Article 20 of Legislative Decree no. 123 of 2011.

Art. 29

Inventory of goods

1. The Office shall provide for the purchase, preservation, maintenance and use of movable goods required for its correct operation.

2. The mobile goods are recorded in appropriate inventories with computer-based recording according to the modalities set forth in Articles 33, 34 and 35 of the Prime Minister's Decree of 22 November 2010.

Art. 30

Consignee

1. The professional duties of the consignee shall be conferred by the Coordinator of the Office to an employee possessing sufficient administrative and accounting skills for a maximum assignment of three years, which can be renewed only once.

2. The consignee shall keep the accounting records referred to in Article 27, paragraph 2, and shall be subject to the reporting controls of records; he/she shall arrange, on the basis of the directives issued by the Office Coordinator, to carry out his/her activities in accordance with the provisions of Article 36, paragraphs 4 and 5, and Article 39 of the Prime Minister's Decree of 22 November 2010.

3. The assignment of the consignee is renewable once and can be held concurrently with that of the cashier for petty cash.

4. Upon the closing of the financial period, the regularity of the accounting records maintained by the consignee shall be certified by the Coordinator of the Office.

5. Should there be variations in the consistency of the movable goods, evidence should be provided in a special reporting sheet signed by the consignee and the Coordinator of the Office.

6. With the deliberation of the Authority Director, further modalities of registration and deletion from inventories, classification and management of movable property may be regulated as well as the modalities of the control referred to in Paragraph 2.

Art. 31

## Contractual Activities

1. The Director of the Authority shall have full negotiating autonomy, within the limits of the budget availability, regarding the deliberation of entering into contracts, the choice of the form of contracts, the determination of the contract clauses and the appointment of the person in charge of the proceedings pursuant to Articles 4, 5 and 6 of Law 7 August 1990, no. 241 of Legislative Decree no. 163, and of the related implementation regulation pursuant to the Prime Minister's of October 5, 2010, no. 207.
2. The Coordinator of the Office may arrange for the stipulation of the contract, acting in the cases laid down by Law, in his/her capacity of certifying officer.
3. All supplies of goods and services are subject to acceptance testing in the terms contractually provided for and in accordance with current legal provisions.
4. For the supplies of goods and services of an amount not exceeding ten thousand Euros, in place of the acceptance testing, the certificate of correct execution shall be provided.
5. The director of the Authority can adhere to the conventions stipulated by Consip S.p.a. and may acquire goods and services through the use of the public electronic market within the amount limits of the prescribed Community threshold

Art. 32

### Simplified negotiated procedure

1. The provisions of Articles 48, 49, 50 and 51 of the Decree of the Prime Minister's Decree of 22 November 2010 shall apply to the procurement of goods and services and the execution of works by means of the simplified negotiated procedure.

Art. 33

### Final regulations

1. For that which is not provided for by this decree, the administrative-accounting activity of the Office shall however be carried out in compliance with the general principles contained in the dispositions set forth in the Law of 31 December 2009, n. 196, and subsequent amendments and Article 2 of Legislative Decree no. 123.

This decree, bearing the seal of the State, will be included in the Official Journal of the Italian Legislative Acts. It is the obligation of all to comply with it and make other comply with it.

Rome, 20 July 2012.

The President: Monti

Viewed, The Keeper of the Seals: Severino

Registered with the Court of Accounts on the 21st of September 2012.

