



Unaccompanied minors at internal borders

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Focus on:

1. RIGHT TO ENTER
2. RIGHT TO STAY AND TO REGULARISE THE LEGAL POSITION
3. PROPER ACCOMMODATION
4. ...OVER ALL: RIGHT TO BE IDENTIFIED AND PROTECTED AS A MINOR

1. RIGHT TO ENTER

□ NO EXPULSION

(SHOULD BE) OBVIOUS IN ITALY (ARTICLE 19
CONSOLIDATED ACT ON MIGRATION (TUI))

NOT THAT OBVIOUS IN NEIGHBOURING COUNTRIES

1.RIGHT TO ENTER

□ NO EXPULSION
FROM ITALY

HOWEVER

**A) MINORS READMITTED
(COURT OF ROME :
Readmission to Greece
from Brindisi port
- Order to issue a visa to
apply for asylum in Italy)**

B) PREVENTED TO ENTER:
- indirect refoulement in the
Mediterranean Sea;
- Inhibition of entry through
joint patrols (Italian and
Slovenian police at
Slovenian border)

**C) SUBJECT TO
ALBANIAN
PROCEDURE?**

2. RIGHT TO STAY

□ GETTING A PERMIT TO STAY FOR MINOR AGE

EXTENDABLE (IN SOME CASES) UP TO 21 YEARS
AND
CONVERTIBLE INTO:

A) PERMIT TO STUDY

B) PERMIT TO WORK

2. AND TO SEEK ASYLUM (when minors)



2. theory VS practice

- Right to enter and to regularise their position on the national territory

Subordinate to :

the way of arrival

the geographical area of arrival

3. RIGHT NOT TO BE DETAINED AND TO DEDICATED FACILITIES

□ ACCOMMODATION

A FEW DAYS IN FIRST ACCOMMODATION FACILITIES THEN MOVED TO PROPER ACCOMMODATION

3.BUT IN PRACTICE

□ Minors disembarked, moved (and de facto detained) in:



HOTSPOTS (Taranto, Pozzallo, Lampedusa..)

ACCOMMODATION CENTERS FOR ADULTS
(Restinco, Sant'Anna..)

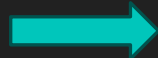
ALL CONDITIONS
AFFECTING RIGHTS
UNDER 1) AND 2)

MAKESHIFT CAMPS

REPATRIATION CENTERS (CPR) AS ADULTS....

3.IN 2023: ROLE OF EU COURT FOR HUMAN RIGHTS

□ URGENT MEASURES UNDER RULE 39

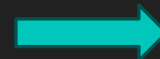
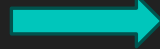


Minors immediately moved to adequate facilities

M. A./ ITALY (August 2023)

○ ITALY CONDEMNED FROM EU Court

Violation of Art. 3 ECHR



DIAKITÈ / ITALY (September 2023)

Destitution and reception in condition of promiscuity with adults

3....The Italian response

□ D.L. 133/2023



Legal basis to promiscuity: minors aged more than 16



Dedicated areas but centers accommodating adults

4. (Over all) RIGHT TO BE IDENTIFIED AS MINORS

□ AGE ASSESSMENT

LAW(
ZAMPA
LAW)

VS

LAW (DL 133/2023)

Only in case of:
- doubts on the personal age
- Lack of identification documents

- **Multidisciplinary approach**
- **no invasive methods**
- benefit of the doubt

4.RIGHT TO BE IDENTIFIED AS MINORS

□ AGE ASSESSMENT

LAW

VS

LAW

D.L. 133/2023: IN CASE OF SUBSTANTIAL
MULTIPLE, CLOSELY ARRIVALS

- TOTAL DEROGATION FROM
ORDINARY PROCEDURE
- RISK OF NULLIFYING
GUARANTEES

- WIDE DISCRETION TO PUBLIC
AUTHORITIES
- X RAYS

4.RIGHT TO BE IDENTIFIED AS MINORS

□ AGE ASSESSMENT

LAW

VS

LAW

D.L. 133/2023: IN CASE OF SUBSTANTIAL, MULTIPLE, CLOSELY ARRIVALS

- TOTAL DEROGATION FROM ORDINARY PROCEDURE
- RISK OF NULLIFYING GUARANTEES

- WIDE DISCRETION FOR SECURITY FORCES
- X RAYS
- NO PRESUMPTION OF MINOR AGE
- NO MULTIDISCIPLINARY APPROACH
- ORAL VALIDATION BY PUBLIC PROSECUTOR

4.RIGHT TO BE IDENTIFIED AS MINORS

□ AGE ASSESSMENT

D.L. 133/2023: IN CASE OF SUBSTANTIAL MULTIPLE,
CLOSELY ARRIVALS

- TOTAL DEROGATION FROM
ORDINARY PROCEDURE
- RISK OF NULLIFYING
GUARANTEES

**CRITICAL ISSUES ALREADY UNDER THE
SUPERVISION PROCEDURE OF THE
COMMITTEE OF MINISTERS OPENED
AFTER**

DARBOE AND CAMARA CASE

(EU COURT CONDEMNED ITALY FOR THE
VIOLATION OF ART. 8 AND 13 ECHR

LACK OF EFFECTIVE REMEDIES IN AGE
ASSESSMENT PROCEDURE

- WIDE DISCRETION FOR SECURITY FORCES
- X RAYS
- NO PRESUMPTION OF MINOR AGE
- NO MULTIDISCIPLINARY APPROACH
- ORAL VALIDATION BY PUBLIC PROSECUTOR

**ECHR PRINCIPLES
IGNORED**

4.RIGHT TO BE IDENTIFIED AS MINORS

□ AGE ASSESSMENT

D.L. 133/2023: **TOTAL DEROGATION FROM ORDINARY PROCEDURE**

IN CASE OF SUBSTANTIAL MULTIPLE, CLOSELY ARRIVALS

BUT

WHO DECIDES WHEN ARRIVALS REACH THAT THRESHOLD ?

IN 2023: 27,476 UNACCOMPANIED MINORS ARRIVED IN ITALY

2,500 LESS THAN 2022

4.RIGHT TO BE IDENTIFIED AS MINORS

□ AGE ASSESSMENT

D.L. 133/2023: **TOTAL
DEROGATION FROM ORDINARY
PROCEDURE**

IN CASE OF SUBSTANTIAL MULTIPLE,
CLOSELY ARRIVALS

BUT

**WHO DECIDES WHEN ARRIVALS
REACH THAT THRESHOLD ?**

THE WAY DATA ARE RECORDED
AND REGISTERED DIRECTLY
AFFECTS THE GUARANTEES

THANKS

ASGI MEDEA
Frontiere Interne
e Balcani