



EXECUTION OF JUDGMENT
DARBOE AND CAMARA V. ITALY

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DARBOE AND CAMARA V. ITALY (5797/17) 21 JULY 2022

- **Unaccompanied minor placed in an adult reception center** overcrowded, lacking adequate facilities and healthcare, for more than 4 months. No guardian appointed, no information and access to asylum procedure.
- **Identified as adult** based on wrist X-ray examination, without procedural safeguards.

Violations of:

- **Article 8:** lack of procedural guarantees in age assessment procedure
> no access to rights as unaccompanied minor.
- **Article 3:** conditions and duration of stay in adult reception center.
- **Article 13 with 3 and 8:** lack of remedy to complain about reception conditions and age assessment.

Leading case for 2 repetitive cases: Diakité v. Italy, M.A. v. Italy



GOVERNMENT'S ACTION REPORT

Action Report July 2023 and Communication January 2024: Request for **closure of the supervising procedure**

- Individual measures

- **General measures:**
 - Law 47/17 on unaccompanied minors (UAMs)
 - Increase of reception system's capacity
 - National Plan against Human Trafficking
 - Law Decree 133/23 conv. Law 176/23 in response to emergency increase in migrants' arrivals



CONCERNS REGARDING GENERAL MEASURES

ASGI's Communications November 2023 and January 2024

Measures implemented do not prevent recurrence of **systemic violations of Articles 3, 8 and 13, similar to Darboe and Camara case:**

- **Limited implementation of Law 47/17 in practice**
- **Law Decree 133/23 conv. Law 176/23 seriously worsened the legal framework** regarding UAMs reception and age assessment > rights violations likely to increase

Concerns about practices and new legislation have been expressed by the National Ombudsperson for the Rights of the Child, the Association of Juvenile Judges, UNICEF, Save the Children



I. RECEPTION CONDITIONS

- **23,226 UAMs** present in Italy on 31 December 2023
(Source: Ministry of Labour and Welfare)
- **Insufficient number of places in reception centers for UAMs with adequate standards:** 750 places in governmental first reception centers for UAMs + 6,150 places in accommodation and integration centers for UAMs
(Source: Government's Communication)
- **4,473 UAMs placed in first reception centers with standards seriously inadequate to ensure the rights of UAMs** (hotspots, first reception centers for adults, emergency first reception facilities etc.), waiting to be transferred to adequate centers for UAMs, on 31 December 2023
(Source: Ministry of Labour and Welfare)



- **Law Decree 133/23 has introduced the possibility to place UAMs aged 16+ in adult reception centers:**
 - pending the transfer to centers for UAMs, for up to **5 months**
 - in dedicated sections, but no indications to avoid **promiscuity with adults**
 - **no specialized staff and services for UAMs** provided
- The placement of UAMs in adult reception centers, that happened in practice but was forbidden by law until October 2023, is **likely to increase**

- Widespread and increasing **detention of UAMs in adult reception centers** in inadequate conditions
 - with **no legal basis and procedural guarantees** (detention of UAMs forbidden by D.Lgs. 142/15, Art. 19, para. 4)
 - Hotspots and governmental reception centers in Lampedusa, Pozzallo/Cifali, Taranto, Crotona, Restinco



- In the adult reception centers and emergency first reception facilities monitored by ASGI, UAMs were in **conditions similar to Darboe and Camara** case:
 - **inadequate material conditions**, in some cases overcrowding and promiscuity **with adults**
 - no **guardian** appointed, no access to **asylum procedure** and legal support
 - no or limited access to **health care, psychological assistance and education**
 - lasting **several months**
 - serious **stress** in the children, exacerbated by **deprivation of liberty**

- **No remedy to complain about reception conditions** has been introduced

- Placement in inadequate reception centers also **hinders identification of UAMs victims of trafficking** > prevents implementation of National Plan against Human Trafficking



- **Three Rule 39 applications to ECtHR (October-December 2023):**
 - UAM detained in adult reception center in Crotone for 5 months
 - UAM detained in adult reception center in Restinco for 2 months
 - UAM detained in a Police station in Rome for 6 days

- **In the three cases ECtHR decided interim measures:** transfer to adequate reception center for UAMs

- **Increased influx of UAMs does not exonerate Italy from the respect of international human rights, and in any case no derogation from obligations under Article 3 is admissible**



Crotone adult reception center where 200 UAMs were detained in June 2023 ([video](#))



Restinco adult reception center where 88 UAMs were detained in December 2023



Emergency first reception facility in Rosolini where 180 UAMs were placed in November 2023



II. AGE ASSESSMENT PROCEDURES

- **Limited implementation of procedural safeguards established by Law 47/17:** e.g. multidisciplinary teams have not been established in many areas

- **Law Decree 133/23 conv. Law 176/23 introduced an age assessment procedure derogating from most procedural safeguards** established by Law 47/17:
 - no appointment of a **guardian**, access to a lawyer and informed participation
 - medical examination, **no multidisciplinary** approach
 - **no judicial decision** on age assessment
 - 5 days to lodge an **appeal**, without automatic suspension of proceedings resulting from identification as an adult
- > no access to an effective **remedy** and not consistent with the principle of **presumption of minor age**



RECOMMENDATIONS TO THE COMMITTEE OF MINISTERS

Considering the **persisting and increasing systemic violations of Articles 3, 8 and 13**, we ask the Committee of Ministers:

- **To continue the monitoring procedure** under enhanced supervision
 - To call upon Italian authorities to:
 - **Amend Law 176/23** provisions regarding the reception of UAMs in adult centers and the age assessment procedure derogating from the safeguards established by Law 47/17
 - **Cease unlawful de facto detention** of UAMs
 - **Increase the capacity of adequate reception system for UAMs**
 - Ensure that **procedural safeguards in age assessment** procedures established by Law 47/17 are respected in practice
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