



Save the Children



JUSTICE YOUTHOPIA

PEER TO PEER GUIDE



This guide was developed as part of the European Justice Youthopia project, which aims to bring the principle of increasingly child-friendly justice into practical action.

<https://legale.savethechildren.it/justice-youthopia/>

The Justice Youthopia project, active in the city of Bari, operates in a network with a series of legal offices operating on the national territory. To receive free legal assistance online, fill out the form at this link:

<https://legale.savethechildren.it/parere-legale-gratuito/>

For multilingual advice, you can call the Helpline for minor migrants toll-free number **800.14.10.16**
Lycamobile **351.2.20.20.16**
active from **Monday to Friday** from **10:00 am to 5:00 pm**

Workshops conducted and document drawn by:

Annarita Del Vecchio
Erminia Sabrina Rizzi
Raffaele Diomede

A special thanks to:

Rosa, Giga, Isabella, Kledi,
Gianna, Davide, Letizia,
Pietro, Fabiana, Antonio,
Carla, Gianluca, Olga, Alex.

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Luca Bicocchi
Raffaele Diomede
Diego Grassedonio
Maria Alessia Imperio
Antonella Inverno
Elisabetta Pezzi
Silvia Taviani
Silvia Zaccaria
Agnese Curri

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IMPROVING CHILDREN
PARTICIPATION IN
LEGAL PROCEEDINGS

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1. THE JUSTICE SYSTEM IN ITALY



You may come into contact with **the justice system** for many reasons.

You may come into contact with **civil justice** when you need to assert your rights and/or need protection.

You may come into contact with the **criminal justice** system when you are accused of having committed a crime or if you are a victim of a crime.

You may have to deal with **administrative procedures and proceedings** especially if you are a foreign minor, for issues related to your refugee status and reception, for example.

Or, in general, if you are a minor who has behaviours considered “**difficult**” to manage.

It is important to know that if you come into contact with the **justice system in Italy**, you have rights that must be respected, whether you are an Italian citizen or a foreign citizen.

Minors, both Italian and foreign, have rights related to the status of minors. These rights are enshrined in the **1989 UN Convention** on the Rights of the Child and other European and national laws.

1.1. HOW THE JUSTICE SYSTEM IN ITALY WORKS



The main places

The Juvenile Court territory where you live deals with matters that concern you from a civil point of view, from an administrative point of view (measures applicable in cases of irregular conduct) and criminal point of view, when you are accused of having violated the law or if you have been the victim of a crime committed by a minor.

In the event that you have been the victim of a crime committed by an adult, the relevant judicial authority is the **ordinary criminal court**.

In the case of separation or divorce of your parents, it is the **Civil Ordinary Court** that takes care of the proceedings.

For matters concerning your **refugee status**, even if you are a minor, the **Immigration Office** of the Police Headquarters of the place where you reside or, failing that, where you are housed (staying) is competent. The precinct is a police office.

The Juvenile Court is responsible for the appointment of the **guardian** as well as for the ratification (or non-ratification) of the reception measures, as well as for what is called the “administrative continuation” for minors who, upon reaching the age of majority, need further support.

If you submit an application for **international protection**, after its formalisation, the **Territorial Commission** for the Recognition of International Protection is territorially competent to evaluate and decide on your application. In case of **refusal** it will be possible for you to appeal and the competent judicial authority is the **ordinary civil court**.

Who you can meet: the main reference figures

At the Juvenile Court, in civil matters you have a **professional judge** (magistrate) and an **honorary judge**. The honorary judge is part of the court for his knowledge in the social, pedagogical, psychological or for the activity carried out in the care of minors.

After hearing all the parties involved, the decision in civil, criminal or administrative matters, taken in your interest, is communicated through a measure that is notified to your parents or your guardian, to the social services, to the lawyer and/or to the special curator, if appointed. The decision is never of a single person but of four Judges, two magistrates of which one is the Presiding Judge, and two honorary Judges who form a “**panel**”.

In the criminal field, after the investigations and in the initial phase of the process called “preliminary hearing”, there are always these three figures: the **presiding judge** and the **honorary judges**, who become four, with the addition of another judge, in the trial.

During the trial there is always the **Juvenile Public Prosecutor** who is a magistrate who carries out the investigations. The Public Prosecutor’s Office for Minors is a specialised public office that deals with three areas: **Civil**, **Criminal** and **Administrative**.

With regard to **civil matters**, the Juvenile Prosecutor’s Office collects reports of situations of risk or prejudice to request measures, as well as issuing an opinion on the proposed measure.

For **criminal matters**, it deals with all requests concerning the investigation of crimes committed by minors.

Finally, in the **administrative sphere**, it has the task of supervising the structures hosting minors, as well as expressing an opinion on the proposed measure.

The **lawyer** is the person who assists you during the trial: in criminal matters you can choose him personally, otherwise the judge will appoint one of his own.

If you have been the victim of a crime, you can only participate in the trial against the perpetrator with the assistance of a lawyer appointed by your parents or guardian.

A **guardian** is appointed when you do not have parents or if, for different reasons, they cannot take care of you and exercise parental responsibility. A guardian is always appointed for foreign minors who arrive in Italy alone.

The assigned **social worker** is the figure who should support you and your family, according to the indications of the Court and who monitors and reports to the judge on your living conditions.

The minor’s **special carer** protects your interests in the process, when your parents or guardian are absent or in conflict with you, performing care and representation functions.

In criminal matters, the **Social Service Office for Juveniles (USSM)** collects information about your personal and family situation when you have committed a crime and verifies the feasibility of a probation process.



1.2. YOUR RIGHTS

➔ Being heard

- Listening is a fundamental prerequisite for your rights to be more than just words.
- The principle is that you must be able to express your opinion in all situations that concern you. Adults and institutions need to ensure you are heard, with age-appropriate modalities, conditions and timing.
- The Convention on the Rights of the Child provides that “the child shall in particular be given the opportunity to be heard in any judicial or administrative proceedings concerning him or her, either directly or through a representative or an appropriate body, in a manner consistent with the rules of procedure of national law”.
- Volunteering is an important aspect: you have the right to express your point of view, that is, it is a choice and not an obligation. The right to be heard is so important that the right to choose not to be heard is also recognised.

➔ To be Informed

- You have the right to be informed about any legal proceedings that concern you or in which you are involved, to know your rights and duties within the justice system.
- You have the right to know the various stages of the proceedings, the expected times, what each action entails.
- You have the right to receive all information in a language you understand and in the presence of a mediator, in a manner appropriate to your age. Not only your parents or your guardian or special carer, but you also have the right to be informed personally by the judge, social worker, lawyer, guardian, and special carer.

➔ To be protected

- You have the right to be protected, to live in a safe environment appropriate to your age and needs.
- You have the right to be protected also through the protection of the privacy of your data, of the information that concerns you, of your images.

➔ Not to be discriminated against

- Whether you are an Italian or a foreign citizen, you have the right not to be treated differently on account of your gender, your nationality, membership of an ethnic group or social group, your colour, your origins, your language, your religion, your sexual orientation, the social and economic conditions of your family, your opinions.

➔ To have a qualified defence

- You have the right to be defended by a trusted attorney, or by the state-guaranteed public defender, or at your choice, even if you or your family cannot provide for its expenses, through free legal aid at the expense of the state.

EMOTIONS AND KEYWORDS

IMPOSITION **LIES** WAITING
WHAT WE EXPERIENCED
ANXIETY ARROGANCE **ANGER** FEAR

TRUTH
EMPATHY **CARE** SENSITIVITY
TRANSPARENCY **WHAT WE WOULD** RESPECT
SIMPLICITY **HAVE LIKED** LISTENING
SIMPLIFYING **HELP** ANSWERS
LIGHTNESS HUMANITY UNDERSTANDING

RELIABILITY **AWARENESS**
WHAT WE HAVE GAINED
SENSE OF RESPONSIBILITY
COURAGE

FREEDOM
OWN VERSION OF THE FACTS
WHAT WE CLAIM
EQUALITY **RIGHTS** EXPRESSION
OPINION

GLOSSARY

Some frequently used terms within the Juvenile Justice system in Italy.

Placement of the child in a foster family

It happens when, finding yourself in a situation of “serious prejudice in the family of origin”, you are welcomed into a foster family.

Both the temporary reception with the available foster family, and the temporary removal from your family, are decided by the Juvenile Court upon referral of the Social Services to the Juvenile Prosecutor’s Office.

Removal of the child

Removal from the family home may be arranged when your physical and mental integrity is in serious danger. In emergency situations, it may also be ordered by social services or the police.

Civil Council Chamber

It is a phase of civil proceedings in which four judges meet as a panel to make a decision.

Trial proceedings

It is the phase of the criminal process that takes place after the indictment trial ordered by the G.U.P. (judge for the preliminary hearing) or skipping the preliminary hearing in the event of an immediate trial.

Spontaneous statements

If you are charged with a crime and on trial, you have the opportunity to speak to the judge at any time by freely making statements. Unlike interrogation, in this case, no questions of any kind can be asked.

Provision

The provision is the final part of the civil, administrative or criminal measure, it contains the decision of the judge who, in criminal matters, acquits or convicts the accused.

In flagrante delicto

Condition of a person who is caught in the act of committing a crime.

Court

Court competent to judge according to the place where the crime was committed.

G.I.P.

Preliminary investigation judge (“Giudice delle indagini preliminari”). This is a judge who intervenes at the request of the parties and decides on individual questions concerning the preliminary investigation phase. It may take evidence that cannot be postponed to the next stage.

G.U.P.

Judge for the preliminary hearing (“Giudice per l’udienza preliminare”). It is a collegiate body, composed of a judge (president) and two honorary judges. During the preliminary hearing, he may decide to close the proceedings with a sentence of “decision not to prosecute” or remand the accused to trial and decide with a sentence in case of alternative rites (e.g. abbreviated rite).

Defendant

It means you’re on a criminal trial.

First offender

It means someone who has never been convicted.

Under investigation

It means you’re charged with a felony, but the trial hasn’t started yet.

Irrelevance of the fact

It is one of the tools of the juvenile criminal process applied in case of tenuousness of the fact and occasional behaviour.

Probation

It is a typical institution of juvenile proceedings that involves the suspension of criminal proceedings for a maximum period of 3 years. In the event of a successful outcome of the reparation path, the crime is annulled.

Criminal proceedings

This is the part of the juvenile criminal proceedings that follows the preliminary investigations, and that is characterised by regular attention to your personality, your needs, your educational needs and the need not to cause harmful interruptions to your growth.

Judicial pardon

A decision that the judge may take when, after ascertaining your criminal responsibility regarding the disputed fact, he/she believes that in the future you will not commit further crimes.

Injured party

It means you’ve been victim of a crime.

Request for indictment

Request from the Public Prosecutor to the Judge setting the preliminary hearing to assess the continuation of the criminal proceedings.

Summary judgement

It takes place during the preliminary hearing at the request of the defendant, who agrees to be tried on the basis of the evidence gathered during the investigations. In case of conviction, the penalty shall be reduced by one third.

Preliminary hearing

The hearing in which the judge decides whether the request for referral to the trial of the Public Prosecutor should be accepted or whether the accused should be immediately acquitted (sentence of decision not to prosecute).

At Save the Children, we want every child to have a future.

We work every day with passion, determination and professionalism in Italy and around the world to give children the opportunity to be born and grow up healthy, receive an education and be protected.

When there is an emergency, we are among the first to get there and the last to leave.

We collaborate with local realities and partners to create a network that helps us to meet the needs of minors, guarantee their rights and listen to their voice.

We improve the lives of millions of children, including those who are difficult to reach, in concrete ways.

For more than 100 years, Save the Children has fought to save children at risk and ensure they have a future.



Save the Children

Save the Children Italia Onlus

Piazza di San Francesco di Paola 9 - 00184 Rome

tel + 39 (0)6 480 70 01

fax +39 (0)6 480 70 039

info.italia@savethechildren.org

www.savethechildren.it