

**Law No. 47 of 7 April 2017**  
**Provisions on Protective Measures for Unaccompanied Foreign Minors\***

The Chamber of Deputies and the Senate of the Republic have approved;

THE PRESIDENT OF THE REPUBLIC

Promulgates

The following Law:

**Art. 1**  
**Scope of application**

1. Unaccompanied foreign minors are holders of the rights concerning children's protection and enjoy equal treatment with minors of Italian or European citizenship.
2. The provisions of this Law apply to unaccompanied foreign minors, given their condition of greater vulnerability.

**Art. 2**  
**Definition**

1. For the purposes of this Law, an unaccompanied foreign minor present in the territory of the State is a minor who has neither Italian nor EU citizenship, who is, for any reason, in the territory of the State or who is otherwise subject to the Italian jurisdiction, without any assistance and representation by his parents or other adults legally responsible for him according to the Italian laws in force.

**Art. 3**  
**Prohibition of *refoulement***

1. The Consolidated Text of provisions governing immigration and the status of aliens, referred to in Legislative Decree No. 286 of 25 July 1998, hereinafter referred to as «Consolidated Text», is amended as follows:
  - a) after paragraph 1 of Article 19, the following paragraph is added:  
«1-bis. Unaccompanied foreign minors cannot be rejected at the border in any case»;
  - b) in paragraph 4 of Article 31, after the words: «the measure is adopted», the following words are added: «, however, on condition that the measure does not imply the risk of serious damage to the minor»; the following period is finally added: «The Juvenile Court decides promptly, and in any case no later than 30 days».

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\* This is an unofficial translation, carried out by Alessandra Bernardon and Ester di Napoli (Office of the Italian Authority for Children and Adolescents). For the purpose of the present translation, the word “minor” refers to any child or young person under 18 years; the word “his” also includes “her”; the word “him” also includes “her” [NoTs].

2. Paragraph 1 of Article 33 of Law No. 184 of 4 May 1983 and subsequent amendments is substituted as follows:

«1. Foreign minors without an entry visa issued according to Article 32 of this Law and who are not accompanied by at least one parent or by any relative within the fourth degree of kinship, are subject to the provisions of Article 19, paragraph 1-bis, of the Consolidated Text referred to in the Legislative Decree No. 286 of 25 July 1998».

#### **Art. 4**

##### **First aid and reception facilities for unaccompanied foreign minors**

1. Article 19, paragraph 1, first sentence, of the Legislative Decree No. 142 of 18 August 2015, is amended as follows:

- a) after the words: «of first reception» the following words are added: «dedicated to them»;
- b) the words: «within sixty days, at identification» are substituted as follows: «within thirty days, at identification, which shall be completed within ten days.».

#### **Art. 5**

##### **Identification of unaccompanied foreign minors**

1. After Article 19 of the Legislative Decree No. 142 of 18 August 2015, is added the following Article:

«Art. 19-*bis* (Identification of unaccompanied foreign minors). - 1. When the unaccompanied foreign minor has come into contact or has been reported to the police authorities, social services or other representatives of the local or judicial authority, the qualified staff of the first reception facility, under the direction of the services of the local competent body and assisted, where possible, by organizations, bodies or associations with proven and specific experience in the protection of minors, carry out an interview with the minor, aimed at deepening his personal and family history and at bringing out every other element useful for his protection, according to the procedure established by Decree of the President of the Council of Ministers to be adopted within one hundred and twenty days from the date of entry into force of this provision. The presence of a cultural mediator is guaranteed during the interview.

2. In the case of serious doubts concerning the age declared by the minor, the provisions of paragraphs 3 and following apply. In any case, pending the outcome of the identification procedures, the minor's reception is guaranteed by the appropriate reception facilities for minors provided by law; if the conditions are met, the provisions of Article 4 of Legislative Decree No. 24 of 4 March 2014 apply.

3. The identity of an unaccompanied foreign minor is ascertained by law enforcement authorities, assisted by cultural mediators, in the presence of the guardian or temporary guardian if already appointed, only after being granted the same minor immediate humanitarian assistance. If a doubt about the declared age exists, this is principally ascertained through an identity document, also through the collaboration of the diplomatic-consular authorities. The intervention of the diplomatic-consular authorities shall not be requested in cases where the minor has expressed the desire to seek international protection or when a possible need for international protection arises following the interview provided for in paragraph 1. Such an intervention shall not be carried out where it can result in dangers of persecution and in cases where the minor declares that he does not want to avail himself of the intervention of the diplomatic-consular authority. The Ministry of Foreign Affairs and International Cooperation and the Ministry of the Interior promote appropriate initiatives, in

agreement with the States concerned, in order to accelerate the completion of the assessments referred to in this paragraph.

4. Should there be any serious doubts regarding the age declared by an unaccompanied foreign minor, the Public Prosecutor's Office of the Juvenile Court may arrange for social and health examinations to be carried out to assess it.

5. With the help of a cultural mediator, and in a language that he can understand and in accordance with his degree of maturity and literacy, the foreigner is informed of the fact that his age can be assessed through social and health examinations, about the kind of examinations to which he shall be submitted, about the possible expected results and their possible consequences, as well as those deriving from his possible refusal to undergo such examinations. Such information shall also be given to the holder, even temporarily, of parental responsibility with respect to the alleged minor.

6. The socio-health age assessment shall be carried out in a suitable environment with a multidisciplinary approach by appropriately trained professionals and, where necessary, in the presence of a cultural mediator, using the least invasive ways possible and respectful of the presumed age, the sex and the person's physical and mental integrity. No social-health examinations that could compromise the psycho-physical status of the person shall be carried out.

7. The result of the social-health age assessment is communicated to the foreigner, in a way that is consistent with his age, his maturity and his level of literacy, in a language that he can understand, to the holder of parental responsibility and to the judicial authority that ordered the assessment. The final report shall always contain the margin of error.

8. Where, even after the social-health age assessment, doubts remain on the minor age, the latter is presumed for all legal purposes.

9. The provision for the attribution of the age is notified to the foreigner and, at the same time, to the holder of parental responsibility, where appointed, and can be challenged in the context of a claim pursuant to Articles 737 ff. of the Code of Civil Procedure. In the event of an appeal, the judge decides as a matter of urgency within ten days; every administrative and criminal procedure resulting from the identification as an adult is suspended until the decision is issued. The decision is also communicated to the police authorities for the purpose of completion of the identification procedures».

2. The implementation of the provisions contained in this Article is provided within the limits of human, financial and instrumental resources available under the current legislation and in any case without new or greater burdens for the public finance.

## **Art. 6 Family tracing**

1. In Article 19, paragraph 7, second sentence, of the Legislative Decree No. 142 of 18 August 2015, after the words: «The Ministry of the Interior» the following are added: «, after hearing the Ministry of Justice and the Ministry of Foreign Affairs and International Cooperation».

2. In Article 19 of the Legislative Decree No. 142 of 18 August 2015, finally, the following paragraphs are added:

«7-bis. In the five days following the interview referred to in Article 19-bis, paragraph 1, if there is no risk for unaccompanied foreign minors or their family members, with the prior informed consent of the same minor and exclusively in his best interests, the holder of parental responsibility, even on a temporary basis, sends a report to the contracting body, which immediately starts the investigation.

7-ter. The result of the investigations referred to in paragraph 7 is forwarded to the Ministry of the Interior, which shall promptly inform the minor, the holder of parental responsibility as well as the qualified personnel who carried out the interview referred to in Article 19-bis, paragraph 1.

7-quater. If suitable family members are identified to take care of the unaccompanied foreign minor, this solution must be preferred to his placement in a community».

3. Pending the appointment of the guardian, the tasks relating to the application for a residence permit or international protection can be carried out by the person responsible for the first reception facility.

4. The implementation of the provisions of this article shall not result in new or greater burdens for public finance.

### **Art. 7**

#### **Foster family**

1. After Paragraph 1 of Article 2 of the Law No. 184 of 4 May 1983, and subsequent amendments, the following is added:

«1-bis. Local authorities can promote the awareness and training of carers in order to favour the foster family of unaccompanied foreign minors, as a priority with respect to their admission to a reception facility.

1-ter. The implementation of the provisions referred to in paragraph 1-bis shall not result in new or greater burdens for public finance; local authorities provide within the limits of the resources available in their budgets».

### **Art. 8**

#### **Assisted and voluntary return**

1. Where the family reunification in the country of origin or in a third country corresponds to the best interests of the minor, the decision on assisted and voluntary return of an unaccompanied foreign minor is adopted by the competent Juvenile Court, once the minor and the guardian have been heard and considering the results of family tracing in the country of origin or in a third country and the report of the competent social services about the situation of the minor in Italy.

2. The following amendments are made to Article 33 of the Consolidated Text:

a) in paragraph 2-bis, in the first sentence, the words: «from the Committee referred to in paragraph 1» are replaced by the following: «from the competent Juvenile Court» and the second sentence is deleted;

b) paragraph 3 is replaced by the following:

«3. The implementation of the provisions contained in this article is provided within the limits of human, financial and instrumental resources available under current legislation and in any case without new or greater burdens for public finance».

### **Art. 9**

#### **National Information System concerning unaccompanied foreign minors (SIM). The Social File (*cartella sociale*)**

1. In implementing Article 19, paragraph 5, of the Legislative Decree No. 142 of 18 August 2015, the National Information System concerning unaccompanied minors is established at the Ministry of Labour and Social Policies.

2. Following the interview referred to in Article 19-bis, paragraph 1, of the Legislative Decree No. 142 of 18 August 2015, introduced by the present law, the qualified personnel of the reception facility compiles a specific social file, highlighting elements useful for determining the best long-term

solution in the best interests of the unaccompanied foreign minor. The social file is forwarded to the social services of the municipality of destination and to the public prosecutor's office at the Juvenile Court.

3. The recording of personal and social data reported by the unaccompanied foreign minor aims at protecting his best interests and his rights and, in particular, his right to protection.

4. The provisions of Article 7 of the Code on the protection of personal data (Legislative Decree No 196 of 30 June 2003) apply.

5. The implementation of the provisions contained in this article is provided within the limits of the human, financial and instrumental resources available under the current legislation and in any case without new or greater burdens for public finance.

### **Art. 10**

#### **Residence permits for foreign minors for whom *refoulement* or expulsion are prohibited**

1. Where the law provides for the prohibition of *refoulement* or expulsion, the *Questore* issues the residence permit:

a) For minor age. In case of unaccompanied foreign minor, found on the national territory and reported to the competent authorities, the residence permit for minor age is issued, at the request of the same minor, directly or through the holder of parental responsibility, even before the appointment of the guardian according to Article 346 of the Civil Code, and it is valid until the age of majority;

b) For family reasons, for the child under the age of fourteen, also pursuant to Article 9, paragraph 4, of the Law No. 184 of 4 May 1983, and subsequent amendments, or submitted to the protection of an Italian citizen living with him, as well as for the minor older than fourteen, also pursuant to the same Article 9, paragraph 4, of the Law No. 184 of 1983, and subsequent modifications, or subject to the protection of a foreigner legally residing in the national territory or of an Italian citizen living with him.

### **Art. 11**

#### **List of voluntary guardians**

1. Within ninety days from the entry into force of this Law, a list of voluntary guardians is established in each juvenile court, to which private, selected and adequately trained citizens can be enrolled by the Ombudspersons for Children and Adolescents of the Regions and of the Autonomous Provinces of Trento and Bolzano, available to take on the protection of an unaccompanied minor or of more foreign minors in the maximum number of three, unless there are specific and relevant reasons. The aforementioned Ombudspersons for Children and Adolescents and the Presidents of the juvenile courts shall stipulate specific memorandums of understanding to promote and facilitate the appointment of voluntary guardians. In the Regions and in the Autonomous Provinces of Trento and Bolzano, where the Ombudsperson has not been appointed, the Office of the Italian Independent Authority for Children and Adolescents temporarily exercises those functions with the support of associations, experts in the field of migration and minors, as well as with the support of local authorities, professional bodies and universities. The Italian Independent Authority for Children and Adolescents monitors the state of implementation of the provisions contained in this Article. To this end, the Ombudspersons for Children and Adolescents of the Regions and of the Autonomous Provinces of Trento and Bolzano collaborate constantly with the Italian Independent Authority for Children and Adolescents to which they present, on a bimonthly basis, a report on the activities carried out.

2. Provisions of the First Book, title X, Section I, of the Civil Code apply.

### **Art. 12**

#### **Protection system for asylum seekers, refugees and unaccompanied foreign minors**

1. In Article 19 of Legislative Decree No. 142 of 18 August 2015, the following modifications are made:

a) in paragraph 2, the first period is replaced by the following: «Unaccompanied minors are accepted as part of the Protection System for asylum seekers, refugees and unaccompanied foreign minors (*Sistema di protezione per richiedenti asilo, rifugiati e minori stranieri non accompagnati*), according to Article 1-sexies of the Law Decree No. 416 of 30 December 1989 converted, with modifications, by the Law No. 39 of 28 February 1990, and in particular in projects specifically aimed at this category of vulnerable people. The capacity of the System is proportional to the actual presence of unaccompanied minors in the national territory and is, however, established within the limits of the resources of the National Fund for the policies and services of asylum, referred to in Article 1-septies of the Law Decree No. 416 of 30 December 1989, converted, with modifications, by Law No. 39 of 28 February 1990, to be rescheduled annually»;

b) after paragraph 2, the following is added:

«2-bis. When choosing the facility, among those available, in which to place the child, his needs and characteristics shall be taken into account, resulting from the interview referred to in article 19-bis, paragraph 1, in relation to the type of services offered by the reception structure. The facilities in which unaccompanied foreign minors are admitted shall satisfy, in accordance with Article 117, second paragraph, letter m) of the Constitution, the minimum standards of services and assistance provided by the residential facilities for minors and shall be authorized or accredited in accordance with the relevant national and regional legislation. The non-compliance with the declarations made for the purpose of accreditation involves the cancellation of the reception structure from the System»;

c) in paragraph 3, first sentence, after the words: «the minor is found» the following are added: «, without prejudice to the possibility of transferring the minor to another municipality» and finally the following words are added: «, taking into consideration the best interests of the minor as a priority».

2. The heading of Article 1-sexies of the Decree-Law No. 416 of 30 December 1989, converted, with modifications, by the Law No. 39 of 28 February 1990, and subsequent modifications, is replaced by the following: «System of protection for asylum seekers, refugees and unaccompanied foreign minors».

### **Art. 13**

#### **Accompanying measures towards the age of majority and long-term integration measures**

1. In paragraph 1-bis of Article 32 of the Consolidated Text, as amended, the following periods are added: «Failure to issue the requested opinion cannot legitimize the refusal of renewal of the residence permit. Article 20, paragraphs 1, 2 and 3 of the Law No. 241 of 7 August 1990, and subsequent modifications shall apply».

2. When an unaccompanied foreign minor, at the age of majority, despite having undertaken a path of social integration, needs a prolonged support aimed at the success of such path aimed at gaining autonomy, the juvenile court can dispose - also at the request of the social services, with a motivated decree - the assignment to social services, in any case not beyond the completion of the twenty-first year of age.

#### **Art. 14**

#### **Right to health and education**

1. In paragraph 1 of Article 34 of the Consolidated Text, the following letter is finally added:  
«b-bis) unaccompanied foreign minors, also pending the issue of the residence permit, following the legal reports after their recovery in the national territory».
2. In the case of unaccompanied minors, registration in the National Health Service is required by, by the holder, even temporarily, of parental responsibility or by the person responsible for the first reception facility.
3. From the moment of insertion of the minor in the reception facilities, the educational institutions of every level and the training institutions accredited by the Regions and the Autonomous Provinces of Trento and Bolzano activate the measures to favour the fulfilment of compulsory education, pursuant to Article 21, paragraph 2, of the Legislative Decree No. 142 of 18 August 2015, and training for unaccompanied foreign minors, including through the preparation of specific projects that provide, where possible, the use or coordination of cultural mediators, as well as conventions aimed at promoting specific apprenticeship programs. The administrations concerned shall implement the provisions of this paragraph within the limits of the financial, instrumental and human resources available under current legislation and in any case without new or greater burdens for public finance.
4. In the case of unaccompanied foreign minors, the study courses' final titles of the educational institutions of each grade are issued to the same minors with the identification data acquired at the time of enrolment, even when they have reached the age of majority, pending completion of the course of study.

#### **Art. 15**

#### **Right to be heard of unaccompanied foreign minors during proceedings**

1. After paragraph 2 of Article 18 of the Legislative Decree No. 142 of 18 August 2015, the following ones are added:  
«2-bis. The emotional and psychological assistance of unaccompanied foreign minors is assured, in every state and degree of the procedure, by the presence of suitable persons indicated by the minor, as well as groups, foundations, associations or non-governmental organizations with proven experience in the assistance to foreign minors and registered in the register referred to in Article 42 of the Consolidated Law referred to in Legislative Decree No. 286 of 25 July 1998, with the consent of the minor, and admitted by the judicial or administrative authority proceeding.  
2-ter. The unaccompanied foreign minor has the right to participate, through a legal representative, in all judicial and administrative proceedings concerning him and to be heard on the merits. To this end, the presence of a cultural mediator is guaranteed».

#### **Art. 16**

#### **Right to legal assistance**

1. In Article 76 of the Consolidated Text of legislative and regulatory provisions on the Expenditure of Justice, as per the Presidential Decree No. 115 of 30 May 2002, and subsequent modifications, the following paragraph is finally added:  
«4-quater. The unaccompanied foreign minor involved in any way in a judicial proceeding has the right to be informed of the opportunity to appoint a legal counsel, also through the appointed guardian

or holder of parental responsibility pursuant to Article 3, paragraph 1, of the Law No. 184 of 4 May 1983, as amended, and to avail himself, according to current legislation, of legal aid at the expense of the State at each state and level of the proceedings. For the implementation of the provisions contained in this paragraph, the expenditure of 771.470 euros per year, starting from the year 2017, is authorized».

#### **Art. 17**

#### **Minors victims of trafficking**

1. In paragraph 2 of Article 13 of the Law No. 228 of 11 August 2003, the following period is added at the end:

«Special protection must be guaranteed in respect of unaccompanied foreign minors, by establishing a specific assistance program that ensures adequate reception conditions and psycho-social, health and legal assistance, providing long-term solutions, even beyond the achievement of the age of majority».

2. In the case of minors victims of trafficking, the provisions of Article 18, paragraphs 2, 2-bis and 2-ter of the Legislative Decree No. 142 of 18 August 2015, and of Article 76, paragraph 4-quater, of the Consolidated Text i.e. Decree of the President of the Republic No. 115 of 30 May 2002, also in order to ensure that the child has adequate assistance for the compensation of the damage.

3. For the purposes referred to in paragraph 2, the expenditure of 154.080 euros per year as from the year 2017 is authorized.

4. The implementation of the remaining provisions of this article shall be carried out within the limits of human and financial and instrumental resources available under current legislation and in any case without new or greater burdens for public finance.

#### **Art. 18**

#### **Minors seeking international protection**

1. Legislative Decree No. 25 of 28 January 2008 is modified as follows:

a) in paragraph 3 of Article 13, the following period is added: «In any case the provisions of Article 18, paragraph 2 of the Legislative Decree No. 142 of 18 August 2015 apply»;

b) in paragraph 1 of Article 16, the following period is added: «For unaccompanied foreign minors, the provisions of Article 76, paragraph 4-quater, of the Consolidated Text i.e. the Decree No. 115 of 30 May 2002 of the President of the Republic shall apply»;

c) in paragraph 5 of Article 26, after the words: «The guardian», the following are added: «, or the person in charge of the reception facility in accordance with Article 3, paragraph 1, of the Law No. 184 of 4 May 1983, and subsequent modifications, ».

#### **Art. 19**

#### **The intervention of protection associations in the proceedings**

1. The associations registered in the register referred to in Article 42 of the Consolidated Text, and subsequent amendments, may intervene in judicial proceedings concerning unaccompanied foreign minors and seek annulment of unlawful acts before administrative courts.

**Art. 20**  
**International cooperation**

1. Italy promotes the closest international cooperation, in particular through bilateral agreements and the financing of development cooperation programs in the countries of origin, in order to harmonize the legal, international and national regulation of the unaccompanied foreign minors' protection system, fostering an integrated approach of practices to ensure full protection of the best interests of minors.

**Art. 21**  
**Financial provisions**

1. In Article 48 of the Law No. 222 of 20 May 1985, after the word: «refugees» the following are inserted: «and to unaccompanied foreign minors».
2. With reference to the burdens deriving from Articles 16 and 17, paragraph 3, amounting to 925.550 euros per year starting from the year 2017, a corresponding reduction is made of the allocation of the special fund for the current portion recorded, for the 2017-2019 three-year budget, as part of the «Special and reserve funds» program for the «Funds to be distributed» mission of the Ministry of the Economy and Finance for the year 2017, partially using, for this purpose, the provision relating to the Ministry of Justice.
3. From the implementation of this Law, with the exception of the provisions of Article 16 and Article 17, paragraph 3, no new or greater burdens shall arise for public finance.
4. The Minister of Economy and Finance is authorized to make the necessary changes in the budget, by Decree.

**Art. 22**  
**Adjustment provisions**

1. Within one month from the date of entry into force of this Law, the Government shall make the necessary changes to the regulations referred to in the Decree of the President of the Republic No. 394 of 31 August 1999, and referred to in the Decree of the President of the Council of Ministers No. 535 of 9 December 1999.

This Law, bearing the seal of the State, will be included in the Official Journal (*Gazzetta Ufficiale*). Anyone is bound to respect it and to ensure its respect.

Rome, 7 April 2017

The President MATTARELLA

Gentiloni Silveri  
President of  
the Council of Ministers

Endorsed, the Keeper of the Seals: Orlando