



Access to justice for children

Country fact sheet: **Italy**¹



Overview

Country size: 301 338 km²

General Population: 60 million

Number of Children: 9,8 million

Date of ratification of the Convention on the Rights of the Child:

27 May 1991

Date of abolition of the death penalty: 1889

Minimum ages

Minimum age of criminal responsibility ("MACR"): 14 years

Age of imprisonment: 14 years

Age until juvenile justice legislation is applied: 18 years. However, an individual who commits a crime under the age of 18 and is therefore within the purview of the child court/system, will remain under the court's responsibility until they reach the age of 25.

Type of legal system

The Italian legal system is based on a civil law system.

Specialisation of the system

Italy provides for several specialised institutions including:

- Child prosecution office
- Child court
- Child legal aid
- Child social work service

Italy also provides for several specialised professionals including:

- Child prosecutors
- Child judges
- Child lawyers / paralegals
- Child social workers

Child-specific legislation

- [Italian Constitution](#) – provides that parents are responsible for supporting and educating their children. It also states that children born out of wedlock are entitled to the same legal and social protection as other children. [English version](#).
- [Italian Criminal Code](#) – governs the criminal responsibility of children.
- The Juvenile Criminal Procedure Code 448/1988 - governs the criminal procedure for children in conflict with the law. It includes all procedural safeguards and guiding principles of the Italian child justice.
- [Legislative Decree of 2 October 2018](#) – rules for the enforcement of sentences against children.
- [Law No. 69/2019](#) – provisions on the protection of victims of domestic and gender-based violence.

The [Convention on the Rights of the Child](#) is directly applicable in Italy's justice system.

¹ The information used to compile this fact sheet is based on the responses to the questionnaire received in March 2020.

Child suspects or accused in criminal proceedings

Implementation of EU Directive 2016/800

The **EU Directive 2016/800** on procedural safeguards for children who are suspects or accused person in criminal proceedings has been transposed and it can be found in the Annex A of *Law no. 163 of 25 October 2017, "Delegation to the Government for the transposition of European directives and the implementation of other acts of the European Union - European Delegation Law 2016-2017"*.

Cross-cutting safeguards

- Children alleged to have committed an offence while below the minimum age of criminal responsibility (MACR) cannot be prosecuted for the offence, but they might be subject to restriction orders (safeguards). When the age of the child is unknown and it cannot be shown that the child is at or above the MACR, the child will not be held criminally responsible. See *Juvenile Criminal Procedure Code, Article 8*.
- Hearings involving children are behind closed doors. Any child age 16 and above may request that the hearing be open to the public. The court will evaluate the request and make a determination. However, the request will not be granted if there are co-defendants who are under the age of 16. See *Juvenile Criminal Procedure Code, Article 33*.
- The Italian constitution provides that all citizens shall be equal before the law and that there should not be any distinction based on gender, race, language, religion, political opinion, personal or social conditions. See *Constitution, Article 3*.
- Italian legislation provides guarantees for children, particularly during proceedings: free legal assistance at all stages of criminal proceedings, presence of a legal guardian or parents at all stages of proceedings, right to effective participation, right to privacy, and protection from discrimination.

Specific procedural measures

- Each prosecutor's office at the child courts has police specialised in child justice. See *Juvenile Criminal Procedure Code, Article 5*.
- The judge and the prosecutor shall perform an assessment of the child's personal, family, social, and environmental conditions to determine the child's responsibility for the crime and any disciplinary measures. See *Juvenile Criminal Procedure Code, Article 10*.

Diversion and alternatives to detention

- Detention is considered as a measure of last resort to be applied for the shortest appropriate period of time. See *Juvenile Criminal Procedure Code, Articles 16-24*.
- The judge may order pre-trial detention as a measure of last resort and only in certain circumstances including if the child is a flight risk, or if the child poses a danger to society. The law offers alternatives to detention for children awaiting trial. See *Juvenile Criminal Procedure Code Article 23*.
- There are alternatives to post-trial detention including education and work programmes. Furthermore, the judge may order the child stay-at-home for a certain time. See *Juvenile Criminal Procedure Code, Articles 25-35*.
- The Italian justice system provides diversion measures specifically for children. Through probationary diversion (*messa alla prova*), the court may suspend the trial to use various measures, including restorative measures. The measures can consist of an individualised educational project lasting a maximum of 3 years. The project may include a variety of objectives and activities, the most interesting being penal mediation. Within an educational project, the justice services may be able to forge a reconciliation path between the child and the victim of the offence. See *Juvenile Criminal Procedure Code, Article 28*.

Child victims and witnesses in criminal proceedings

Implementation of EU Directive 2012/29

As of 11 May 2020, Italy has not transposed **EU Directive 2012/29** establishing minimum standards on the rights, support and protection of victims of crime and the European Commission had ongoing infringement proceedings against Italy for its failure to transpose **EU Directive 2012/29**.

Cross-cutting safeguards

Children who are victims of certain crimes of exploitation or sexual offences shall receive emotional and psychological assistance at every stage of the proceedings. See *Criminal Code, Article 609 decies*.

Focus on status offences

Italy does not address behaviour typically deemed a status offence through the criminal justice system. This includes offences such as truancy, running away from home, curfew violations, and possession of alcohol or tobacco. Instead, such behaviour may be addressed through the social welfare or child protection sectors, or within the community.

Other relevant information

The *Italian Criminal Code* makes it an offence to instigate or commit a crime based on racial, ethnic, national, or religious reasons. It is also a criminal offence to incite discrimination based on these reasons. See *Criminal Code, Article 604 bis*.

There are several civil society organisations in Italy which raise awareness and promote equality for LGBTQ and children of foreign origin.