

CRBB2.0

Data collection

Italy

The indicators, presented hereunder, are a selection of the indicators developed by Unicef and UNODC along with the indicators developed by the UN Global Study on children deprived of liberty. The selection was based on the following criteria:

- Relevancy to CRBB2.0 project
- Availability of the data

We would like to identify data and indicators that give a glance on the situation of children deprived of liberty in each partner country. This data collection will be used to present the situation in each country.

1) What is the minimum age of criminal responsibility in your country?
If the minimum age of criminal responsibility varies within your country, please provide details.

Fourteen, if he/she has the ability of discernment.

Italian Penal Code, art. 97: “Cannot be criminally responsible who, at the time when he committed the fact, had not reached the age of fourteen”.

Italian Penal Code, art. 98: “It can be criminally responsible who, at the time he committed the fact, was not eighteen, but was fourteen, if he had the ability of discernment, but the sentence is diminished. When the sentence imposed is less than five years, or it is monetary penalty, no additional penalties are imposed. If the sentence is more serious, the conviction just involves prohibition from holding public office for a period not exceeding five years, and, in the cases established by law, the suspension from the exercise of parental responsibility”.

2) Are there separate juvenile justice processes and/or facilities for children in conflict with the law?

Please describe juvenile justice arrangements at all levels of the criminal justice system (police, courts, corrections).

DPR 448/88, Art. 9: “Judiciary Organs in criminal prosecution of minors:

1. In the prosecution of a minor, the tasks are attributed to, pursuant the law of the judiciary:
 - a) Republic’s Prosecutor in Juvenile Courts;
 - b) Juvenile court judge for the preliminary hearings;
 - c) Juvenile Court;
 - d) Attorney General/ General Prosecutor in the Appeals Court;
 - e) Juvenile Section in the Appeals Court;
 - f) Juvenile Surveillance Judges.

Juvenile Services, institutional goals :

- a) Enforce judicial orders
- b) Assist the juvenile offender in any step of the criminal proceeding, providing him/her with support and clarifications on the procedure
- c) Establish and guarantee steady contacts with the Judicial Authority in order to provide it with information on the juvenile offender, his/her personal, familiar and social condition as well as information on local resources, facilities and Service
- d) Provide support to the juvenile and his/her family throughout the criminal process in order to also promote the development of their personal and family resources as well as the knowledge and the use of institutional and community resources
- e) Activate and implement the facilities and resources existing at a local level

Juvenile Services, organisation:

- Juvenile Justice Services are dependent upon 11 Centres for Juvenile Justice (CGM) which have jurisdiction at regional or inter-regional level. They are responsible for technical and financial planning, follow-up and supervision of juvenile justice services such as the Juvenile Classification Homes (CPA), Offices of Youth Social Service (USSM), Juvenile Detention Centres (IPM), and Communities.
- Juvenile Classification Homes (CPA): Accommodate arrested minors till the first hearing for a maximum of 96 hours. Staff on duty draw up a report on the psychological and social condition of the child in order to provide the judicial authority with every useful information in case a pre-trial measure is applied.
- Youth Welfare Offices (USSM): Assist young offenders in the different stages of judicial proceedings and ensure the promotion and protection of their rights. Upon request by the prosecutor, they gather useful information to assess the child’s personality. They enforce alternative sanctions and supervise youths under probation during the stay of criminal proceedings.
- Juvenile Detention Centres (IPM): Prison facilities where custodial measures are enforced and judgements are served. IPMs should ensure that minors’ full rights

- are always protected; specifically the right to health, to a balanced psychological and physical development, to the continuity of their education.
- Communities: The 12 Communities ensure the enforcement of measures passed by the judicial authority with respect to the juvenile offender. A tailored educational program is set up – with the juvenile’s approval – taking account of his/her personal and family resources and of the opportunities offered on a local level. This is the start of the awareness-raising process involving the juvenile.

3) From what age are children subject to detention in the juvenile justice system? From what age are they subject to detention in the adult criminal justice system?

Imputable persons who committed a criminal offence between the age of fourteen and eighteen are judged by the Juvenile Court and can be subject to detention in the juvenile justice system until they are 25 years old.¹ If the criminal offence was committed after having turned 18 years old, the individual is to be judged according with and inside the adult criminal justice system.

4) Please provide the number of children deprived of liberty on 1 January 2017 in the criminal justice system:

A) in pre-trial (remand) detention

B) in prison or other detention facilities after a conviction and sentence (or their equivalent in domestic law)

A) In pre-trial (remand) detention	Minors (14-17)	Young Adults (18-25)	Total (14-25)
Male National	31	7	38
Male Non-National	25	11	36
Male Total	56	18	74
Female National	5	0	5
Female Non-National	2	2	4
Female Total	7	2	9
TOTAL	63	20	83

B) in prison or other detention facilities after a conviction and sentence	Minors (14-17)	Young Adults (18-25)	Total (14-25)
Male National	49	167	216
Male Non-National	62	84	146
Male Total	111	251	362
Female National	3	7	10
Female Non-National	10	13	23

¹ Art. 3 DPR 448/88 and Art 98 of the Italian Penal Code.

Female Total	13	20	33
TOTAL	124	271	395

Source: Dipartimento Per La Giustizia Minorile E Di Comunita' - Servizio Statistica - Flussi Di Utenza Degli Istituti Penali Per I Minorenni - Situazione Nazionale – Primo semestre 2017
<https://giustizia.it/resources/cms/documents/IPM_1sem_2017.pdf> (last access 24 April 2018)

Please provide data disaggregated by age and nationality (citizens/non-citizens) where possible.

Table 1: Children deprived of liberty in the criminal justice system

	Under 10			10-11			12-13			14-15			16-17			Total (ages 0-17)		
	Nat	Non-nat.	Total	Nat	Non-nat.	Total	Nat	Non-nat.	Total	Nat	Non-nat.	Total	Nat	Non-nat.	Total	Nat	Non-nat.	Total
A) Pre-trial detention																		
Male																		
Female																		
Total pre-trial detention																		
B) Sentenced																		
Male																		
Female																		
Total prison																		
Total children in deprived of liberty in the criminal justice system																		
Male										17	14	31	66	52	118	83	66	149
Female										1	10	11	2	9	11	3	19	22
Total										18	24	42	68	61	129	86	85	171

Source: Dipartimento Giustizia minorile e di comunità - Ufficio I del Capo Dipartimento - Servizio Statistica – April 2018
https://giustizia.it/resources/cms/documents/quindicinale_15.04.2018.pdf last access 24 April 2018

- 5) **Please provide the total number of children aged 0-17 deprived of liberty in the context of criminal justice in each of the last 10 years when data are available.**

Table 3

Children 0-17 + Young Adults (up to 21) who committed the crime when they were <18

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 (up to 25)
Male	381	423	469	438	459	474	418	342	400	429
Female	42	46	34	37	27	34	34	23	36	44
Total	423	469	503	475	486	508	452	365	436	473

Average daily presence

Children 0-17

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Male										166
Female										13
Total										179

- 6) **What sentencing options (including non-custodial measures) are available for children convicted of a criminal offense provided for by law, policy or practice?**

According to the DPR 448/88, the law concerning the Juvenile Justice Criminal Procedure there are several sentencing options, including various non-custodial measures to children and young adults, who have committed a criminal offence when they were less than 18 years old. Namely:

- Statutory Period of Limitation (DPR 448/88, Art. 20)
- House Arrest (DPR 448/88, Art. 21)
- Correctional Institutions (DPR 448/88, Art. 22)
- Custody (DPR 448/88, Art. 23)
- Irrelevance of the fact (DPR 448/88, Art. 27)
- Suspension of the process and probation (DPR 448/88, Art. 28)
- Alternative Sanctions: semi-detention and controlled freedom (DPR 448/88, Art. 30)
- Judicial pardon (Italian Penal Code Art. 169)

- 7) **What is the longest period of custodial detention (imprisonment or other form of detention) to which a child can be sentenced?**

According to the Italian criminal proceedings law, DPR 448/88, and Judiciary practice, the sentence is to be balanced having due regard to the severity of the fact, the personality of the child, his/her educational needs and the child's personal, family

and social conditions and resources.² Moreover, when the minor is imputable, the law clarifies that the sentence is to be diminished³ up to one-third⁴. Accordingly, there isn't a codified maximum sentencing period in the Juvenile Justice System. Instead it is a decision of the Juvenile Court. As a result, and even if the sentence will always be reduced, a minor sentenced in the Juvenile Justice System can later⁵ be transferred to an adult prison to serve the remaining of his/her sentence.

8) What is the percentage of children in detention not wholly separated from adults?

Recently the age for juveniles to remain in the Juvenile Justice System was extended. The ultimate aim of the Juvenile Justice System in Italy is the balance between the realization of the state's punitive claim and the best interest of the child, including re-education and rehabilitation. Accordingly, and having due regard to the personality development and social environment in which the minor has grown up, the re-education is the preferred path to take.

The Law Decree 92/2014, transformed in law n. 117 of the 11.08/2014, extended up to 25 years old the stay in the Juvenile Justice System, to persons who have committed the criminal offence when they were minors. As a result, not only minors up to 18 years' old are placed in the Juvenile Detention Centers (IPM's), but also young adults up to 25 years' old. For this fact, and mainly for structural and organizational limitations, minors (14-17) are not wholly separated from young adults (18-25) in the Juvenile Detention Centers, even if national regulations invite the IPMs to ensure separated treatment of these two groups.

9) What is the percentage of children released from detention receiving aftercare? Please provide data disaggregated by type and nature of aftercare when possible.

No data is available at the moment regarding the aftercare of children released from detention.

10) Is there any data and/or analysis regarding recidivism of children who have been deprived of liberty?

Gathering data on and analyzing recidivism is a very complex task. In fact, data available do not allow elaborating a precise and updated picture on the issue. However some observations can be done. On the one hand, it must be considered that imprisonment is seen as extreme ratio, used only in extremely serious cases and very often when the child has repeatedly committed a crime. Thus a rather high percentage of children or young adults in juvenile prisons are already recidivist. On the other hand, there is no data collection system allowing to register the percentage of children or young adults that have been condemned again but in the adult system.

² Art. 1 and 9 DPR 448/88.

³ Art. 98 Italian Penal Code.

⁴ Art. 65/3 Italian Penal Code.

⁵ After completing 25 years (Please see answer to question 8 below).

In 2013 the Department of Juvenile Justice made a study on recidivism⁶ showing that:

- the percentages of recidivism, in terms of being criminally suspect or accused again, show that the 69% of minors were not recidivist; the 31% of the sample had committed other offences after the first one. More precisely: the 12% only as minor, the 9% both as minor and as adult; the 10% only as adult.
- foreigners (46%) (in particular unaccompanied, foreign children of first and second generation) were more recidivist than Italians (28%), female foreign minors (55%) were more recidivist than Italian girls and than male foreign children.
- the earliest the intervention of the social services is, the lowest is the recidivism percentage. The longest is the period between the offence and the activation of the social services, the lowest is the effectiveness of the social services' action.
- a condemned minor is more recidivist (63%) than a minor benefiting from the suspension of the process and probation (22%).

The Third Antigone Report regarding the Italian Juvenile Detention Centers,⁷ also refers the suspension of the process and probation and the education and the greatly needed aftercare as a successful way of decreasing recidivism.

⁶ Isabella Mastropasqua et al., « I numeri pensati - La recidiva nei percorsi penali dei minori autori di reato », Gangemi Editore, Roma, maggio 2013 disponibile su : http://www.centrostudinisida.it/I-numeri-pensati---La-recidiva-nei-percorsi-penali-dei-minori-autori-di-reato_h16.aspx

⁷ Susanna Marietti Ed., 'Ragazzi Fuori : Terzo Rapporto di Antigone sugli Istituti Penali per Minori', ISBN 9788898688128, Antigone 2015