CHAPTER 5
ITALY: EMPIRICAL FINDINGS
Claudia Cesari, Deborah De Felice en Vania Patane

1. INTRODUCTION
The aim of this chapter is to describe the Italian practice of interrogating young suspects. Until today, no empirical research has been conducted in Italy with regard to the interrogation of juvenile suspects. In contrast with the wide range of literature on the questioning of young victims and young witnesses, no attention has been paid to the juveniles who are suspected of having committed a criminal offence. Therefore, this study aims to draft a first picture which is derived from focus group interviews with legal professionals and with juveniles. The findings from the focus group interviews are complemented with the analysis of recorded interrogations with young suspects.

Focus group interviews were conducted with all actors directly involved in the interrogation of young suspects: police officers, prosecutors, lawyers and social workers. Participants varied in their experience with regard to the interrogation of young suspects as well as in the degree of their specialisation. In the police focus group nine police officers from two types of police forces (carabinieri and state police) participated. Police officers, mostly female, differed in function as well as in the interrogation training they had followed. The focus group interview with lawyers consisted of six male and female juveniles lawyers of which five were enrolled in the duty lawyer scheme. The focus group interview with prosecutors entailed seven mostly female prosecutors from three districts. Prosecutors were balanced on the criteria of their function (public prosecutors versus deputy public prosecutors) and training. The seven social workers in the focus group interview were all females who came from three different districts and varied in experience and training on interrogation of juveniles. The reason for this is that social workers are not always present during the first interrogation that takes place at the police station. It is more common that they are present at the juvenile first reception centre or during the interrogation carried out by the prosecutor.

A focus group interview was also held with juveniles at a Juvenile Detention Centre. Eight male juveniles convicted for an offence participated. These juveniles, a mix of repeat offenders and first offenders, differed also with regard to the type of crime they were suspected of.

The focus group interviews with legal actors show ambivalent positions with respect to the functioning of the juvenile justice system. On the one hand, they expressed a general satisfaction with regard to the regulatory framework provided for juveniles involved in the criminal circuit. On the other hand, many organisational and operational aspects emerge as problematic.

Written records were examined since in Italy interrogations of young suspects are neither audio- nor video recorded. This means that information is derived from constructed written records which might not fully and/or accurately reflect reality. For the purpose of the document analysis 25 written records were selected. All interrogations were conducted between 2012 and 2014 by prosecutors or police. Written records from various areas in Italy were included to capture different practices. The geographical variability also reflects differences between large and small towns. Juveniles were mostly males who were interrogated for various types of crime. Most of them were assisted by one or both parents and a limited number by another appropriate adult (hereafter: AA).

A balance was strived for between appointed lawyers (6) and hired lawyers (19). Based upon integrated findings from these five focus group interviews and the analysis of 25 written records a picture of interrogation with young suspects in Italy will be drawn. First, a general description of the practice from the first contact until the recording of the interrogation will be provided. Subsequently, the vulnerability of juveniles will be discussed, followed by an examination...
of safeguards and good practices, including the need for specialisation and training.

2. DESCRIBING THE PRACTICE

2.1. FIRST CONTACT

‘First contact’ refers to the first contact between juveniles and the judicial system. This ‘first contact’ could be with ‘street police officers’ (at arrest), or with the police officers who operate in the Juvenile Prosecution Division (when juveniles are invited to appear at the station for interrogation).

1 Th e “fi rst reception centres” (centri di prima accoglienza) are special facilities, managed by specialized staff , where the arrested juveniles are taken immediately after the arrest.

Juveniles report that they were arrested by the police and brought to the police station while they were at home or out on the street. At this stage the police solely explain the reason why they are arresting them but refrain from asking questions. The police attitude is described as aggressive, threatening and designed to scare them. A juvenile said:

“You always have to say that it is as they say. They do it with the intention of seeing how you react but, in the end, they decide whether to believe you or not”.

Some differences were highlighted between the contact with the ‘street police officers’ at the time of arrest and the contact with the police officers who operate in the specialised unit at the Juvenile Prosecution Office.

Regarding the information gathered before the first interrogation, the police normally dissuade juveniles from making statements in the absence of their lawyer. According to the code of criminal procedure the police have a clear mandate to make a full record of everything said during the interrogation of juveniles and the lawyer must be present when an interrogation takes place, also during the preliminary investigations.

In 20 out of 25 written records examined, no references were found to the information gathering (stages of investigation) preceding the interrogation. In the remaining five written records, some references were made concerning spontaneous statements given by young suspects immediately after the arrest. In two written records the police referred to information gathered before the interrogation. In the other three written records, the juveniles themselves refer to their arrest and their immediate spontaneous confession.

2.2. POLICE PROCEEDINGS

Almost all interrogations studied were delegated to the police: 23 out of the 25 interrogations were carried out by police officers after delegation by a public prosecutor and two were carried out by a public prosecutor. Due to the high degree of formality of the structure of 25 examined written records, it is impossible to examine differences between the interrogations conducted by prosecutors.

In general, for all the written records, it is possible to identify five basic parts: the charges, the appointment of the lawyer, the sources of evidence, the advice on procedural rights and the report of the facts by the juvenile.

It is the suspect who provides information about his identity, date and place of birth, residence (usually an identification document like identity card is shown). Other procedures of identification (mug shot and fingerprints) are carried out by the police, as specified in the following paragraphs, only in the event of arrest and/or imprisonment.

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According to the written records – before the start of the interrogation – the police serve the juvenile with the relevant article(s) of the criminal code he is suspected of having breached and they explain any possible aggravating circumstances. Secondly, they ask the suspect to provide an address for communications which very often will be the address of a lawyer’s, who is appointed simultaneously. Thirdly, the police make a list of the sources of evidence against the suspect even though sometimes evidence is lacking. Finally, pursuant to art. 64 of the code of criminal procedure, the suspect is notified that
his declarations can always be used against him; that he has the right to remain silent; and that, if he makes statements concerning the responsibility of others, he will assume the role of a witness on these matters.

2.2.1. Timing

What emerges from the written records is that, in general, the interrogations are conducted in the morning (20 out of 25 written records report a time between 9:00h and 13:00h) or in the afternoon (at latest interrogations are concluded at 19:05h). Both police and lawyers in the focus groups agree on the timing and that flexibility is normally granted in favour of the juvenile’s needs and obligations, particularly having to go to school. Conflicting results emerge from the focus group interview with juveniles, which shows a great variability concerning the time spent at the police station and the duration of the interrogation. It depends on when the juvenile was arrested: some juveniles were arrested at night, others during the day. When the arrest took place at night, juveniles were held at the police station longer waiting for their relatives or lawyer.

The written records of interrogations do not reveal anything about the time of arrest and the arrival at the police station. They merely record what is being said during the interrogation. It is important to underline that these written records were related to juveniles who were not arrested, but who were invited to appear at the station for interrogation. Normally, the prosecutor sends the juvenile under investigation a notice of invitation to appear, at least three days prior to the interrogation. This notification specifies the date, time, place of the interrogation as well as the authority before which the person must appear.

2.2.2. Police activities

In Italy, before the interrogation of an arrested juvenile commences, the following procedural steps are taken: 1) the juvenile is brought to the police office, where the police proceed to inform the prosecutor on duty, the family and the appointed lawyer; 2) the police proceed to perform biometrics recognition (short or tall build, size, eyes color, skin color, tattoo) at the police’s scientific office or at the scientific investigation department of the carabinieri; 3) the judicial police write a report of arrest and draw up a notice which they hand over to the juvenile to take with him to the first reception center; 4) if the juvenile has been arrested he is identified (collecting biometrics) in order to make an information tag containing the date and reasons of arrest and the time of arrival at the first reception center et cetera and 5) the judicial police draw up a report to which all previous documents for the prosecutor are attached.

Prior to the interrogation of a juvenile, the following procedure is followed: the police proceed with the identification of the juvenile suspect, they invite him to elect domicile and to appoint a lawyer. If the crime is not serious, the prosecutor draws up a report entrusting the juvenile to the custody of his parents. In addition, the prosecutor prepares an informative document which is to be send to the investigative judge of the Juvenile Division (specifying the acts performed by the police and the acts against the person under investigation), asking for the validation of the arrest. The public prosecutor, to whom the file is assigned by the chief prosecutor, delegates further investigations and the interrogation to the responding officers or to the section of the judicial police at the Juvenile Prosecution office.

2.3. INFORMATION ON RIGHTS

In Italy there is not a widespread use of a written notice of rights, yet. However, it is compulsory to orally communicate the rights to the juvenile before the interrogation begins. The focus groups with professionals contended that juveniles are informed on their rights prior to the interrogation. In contrast to what was reported by prosecutors and police, 5 of 8 juveniles have claimed that they were not informed of their rights. In the focus group interview juveniles seemed to be confused about the definition of ‘rights’. Some juveniles mentioned only the right to have a lawyer and the right to inform the family, but others said that the police didn’t explain anything. One juvenile, talking to the moderator during the focus group interview, exclaims:
“But according to you, there is someone that says: ‘You have the right to do this or that?’”. According to social workers, juveniles often ignore their rights, as do their families: they would be informed through ritual formulas without being put in the condition to really understand. This would be one of the reasons why social workers consider their role and the role of lawyers in informing and supporting juvenile suspects indispensable. They can reduce any misunderstandings and failures on the part of the interrogators.

Quantitative analysis shows that in all 25 interrogations the rights of defence were communicated to the suspect: the right to remain silent, not to incriminate himself/herself, and the warning that if he will make statements about third parties he will assume the role of witness in their cases.

2.3.1. Checking for understanding

To ensure that juveniles understand is an important aspect of information about rights in juvenile proceedings: there is an obligation to illustrate the meaning of procedural activities and the content and reasons of every decision taken. On the matter of checking for understanding, there are conflicting opinions: making sure that juveniles really understand what their rights are would depend on the personal sensitivity of the interrogators.

Prosecutors claim to inform juveniles before any interrogation in two steps: in a first step, reading the notices required by law and, in a second step, explaining what these warnings mean. Prosecutors agreed that juveniles, at the time of the interrogation, are confused and have difficulties in understanding what they hear: so, it is essential to explain not only what are their rights but also what are the consequences of these rights.

Some police officers said they literally read the warnings about rights as they are written in the code. Other police officers, instead, agreed that it is necessary to translate in simple terms what is normally used with adults: “I put in plain words and not in legal language what is happening, what the law requires and what will happen”.

Since it often happens that juveniles experience difficulty in understanding Italian, because they are used to express themselves only in a local dialect (given the multitude of regional dialects in Italy), a police officer emphasises the need to be able to speak the local dialect, if the juvenile is not used to speaking Italian official language.

2.3.2. Information about the right to legal assistance

Legal assistance is among the rights about which the police inform juveniles. During the focus group interview juveniles were asked about which they were informed by the police at the time of their arrest. Juveniles mentioned the right to call their own lawyer. If the juvenile has no hired lawyer, a court-appointed lawyer will be chosen from a list of specialised lawyers.

In the written records the right to legal assistance is not among the rights the juvenile is warned about, but it is taken for granted: all the written records report the appointment of a lawyer.

2.3.3. Information about the right to silence

During the focus group, prosecutors agreed that it is important for juveniles to be well aware of their right to remain silent. If the juvenile decides not to exercise this right, this behaviour, according to prosecutors, helps them “to understand his situation and to be able to intervene to help the juvenile”.

The police, when informing juveniles about their right to remain silent, also state that it would be better for the juveniles not to do so, because it could be seen as an uncooperative attitude. Prosecutors themselves consider the juvenile’s willingness to answer as a cooperative attitude. Such behaviour, according to them, could influence the request to be submitted to the judge, at the end of proceedings, in order to choose among the range of options for the case disposal the one that fits the specific situation best. The use of such a dissuasive technique (of informing the juvenile that it might be better not to remain silent)
is problematic, because it can have an impact on the way the juvenile perceives procedural rights, on the outcome of the case and on the possibility of realising an effective criminal defence.

Police officers express the opinion that the juvenile suspect’s strategy could depend on the lawyer instead of the juvenile’s own volition. Conversely, lawyers explain to the juveniles why it is better for them not to answer, when the case requires so, because they do not have the sufficient information on the case, to devise a defensive strategy, yet, or they want to assess the situation first (that is the juvenile’s background, the features of the suspected crime and the existing evidence). This practice seems to be confirmed by the juveniles in the focus group interview. When asked what they discussed with their lawyer, the juveniles reported that they had evaluated with their lawyers the opportunity to adopt the silence-strategy. Even though police officers try to dissuade from the use of the right to silence, it seems that juveniles in the interview were confused and chose to adopt this strategy nonetheless. It remains uncertain how many juveniles do cooperate because of this ‘informative’ statement by the police.

2.3.4. Information about the right to have someone informed of detention

The right to call a family-member is mentioned among the rights that the police communicate to the juveniles. In the focus group interview the juveniles indeed mentioned this as one of the rights they are informed about. When the arrest occurs on the street, school premises or elsewhere away from relatives, families are contacted by the police or by the juveniles at the request of the police, when they are already at the police station. The juveniles, however, specify that the call to their parents was necessary to, first of all, collect their personal belongings (before being brought to a secured facility). Secondly, the parents were contacted because it is mandatory and the police insist on it.

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2.4. LEGAL ASSISTANCE

The juveniles in the focus group interview said that their family contacted the lawyer who met them after hours or, in one case, after two days, directly to the hearing for the validation of the arrest. In general, if the interrogation is conducted by prosecutors, or by the police delegated by the prosecutor, the lawyer is always present.

Two interpretations of their mandate emerged from the focus group interview conducted with lawyers: one closely connected to ensuring a proper technical defense for the client; another more inclined to consider their role as more closely linked to the possible ‘educational value’ of the juvenile justice process. The two orientations, according to lawyers, are the result of a fundamental ambiguity in the legal system: while it is clear that the role played by the judge in the process is deciding on the merits of the case and safeguarding the fairness of proceedings, to define the role of the juvenile lawyer is more difficult. In fact, the juvenile lawyer, has the responsibility to make sure the juvenile understands the procedural events, raising the level of awareness as well as ensuring a proper technical defense for his client.

2.4.1. Decision / waiver

According to the participants it never happens that juveniles waive the right to legal assistance. The law in fact does not provide for this option: juveniles can decide whether to have a court-appointed lawyer or a chosen lawyer but they cannot waive the right to legal assistance in general. Moreover, according to the police, juvenile suspects would not have such self-determination capacity. A prosecutor said that only once in his entire career it happened that, due to the insistence of a juvenile and only because the lawyer did not arrive, he had to interrogate a juvenile in the absence of a lawyer. In fact, the criminal code establishes that, in the lawyer’s absence, the information obtained by the suspect is not usable and, therefore, the results of the interrogation cannot be used as evidence. The police are very clear on this point: “they said they cannot collect confessions in the absence of the lawyer”.

De facto, on the written records of all the interrogations analysed, the lawyer is always mentioned as present. As shown in table 1, in 18 out of 24 interrogations, the lawyer is a chosen lawyer. In one interrogation it was not
specified in the written record what the lawyer’s qualification (chosen or appointed) was.

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Table 1. Lawyer present during interrogation

<table>
<thead>
<tr>
<th>Assistance</th>
<th>Yes, chosen lawyer</th>
<th>Yes, appointed lawyer</th>
<th>No Unknown</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal assistance at interrogation</td>
<td>18</td>
<td>6</td>
<td>0</td>
<td>1</td>
</tr>
</tbody>
</table>

2.4.2. Pre-interview disclosure and lawyer’s advice

During the investigative phase, the police and prosecutors tend not to reveal anything to lawyers: “It is the rule!”. However it may happen that, in exceptional circumstances, prosecutors give some information to the lawyers if they show a collaborative attitude, aimed at finding the best solution for the juvenile. Some lawyers indicated that they try to get information during an investigation, for example on the existence of any witnesses or about the type of precautionary measures that the prosecutor wants to ask. Only some of them are able to obtain the information required; it depends on the existence of a personal relationship of trust between the investigating authority and the lawyer: “If, for example, a police officer or a prosecutor tells me something, he does so because he knows that I will make proper use of this information”.

2.4.3. Consultation

The written records of interrogations only give information about what happens during the interrogation. Besides information obtained through the focus group interviews, there is no information about the consultation of juveniles with their lawyer. During the consultation, the lawyer may recommend the juvenile to answer. This depends on the dual mandate that lawyers feel they have towards juvenile suspects. On the one hand, lawyers suggest the juveniles to remain silent, with a view to their responsibility to protect them from the possibility to incriminate themselves. On the other hand, lawyers play an educative role, suggesting to juveniles to talk and trying to be aware of the relevance of their behavior.

The lawyers interviewed did not do telephone consultations. On the questionnaires administered to the lawyers before the focus group interviews, all of them replied they had never made any telephone consultations: consultations are done face to face mainly in their own office and rarely at the police headquarters.

Discussing the importance of legal assistance, one lawyer said:

“We are the first ones who deal not only with the legal aspects but also with the aspects of human life. We are in a middle ground, because the juveniles have such a fear and families don’t know what to do. We are the first lifeline”.

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All focus groups pointed out, however, a substantial difference between the lawyers enrolled in the duty lawyer scheme for juvenile lawyers and the chosen lawyers.

The latter, according to the opinion of those interviewed, often do not have adequate training and are motivated more by making a profit than by the juvenile’s best interest. Through this procedural strategy, juveniles get to experience the process from an adult perspective, targeted exclusively to get to a dismissal.

Legal consultation consists of a discussion of the offence details and of the defensive strategy. Normally, the lawyer asks juveniles and their parents or relatives (always present) to come to his office to discuss and to explain why they choose this strategy. At this stage the lawyer verifies, in addition by contacting social workers, the chances for a probation order or other options alternative to detention. When juveniles are detained, the lawyer can meet them at any time. As one lawyer suggests, it would be good to consider the possibility of ‘defensive investigations’ by using the knowledges and the work of other professionals, such as criminologists, psychologists and social workers to investigate some behavioral dynamics and the family background of juveniles.4

Basically, lawyers try to get juveniles and their family to trust the defence
strategy which they propose, trying to involve, first of all, juveniles to follow the strategy.

The first meetings between juveniles and lawyers, however, are sometimes characterised by a lack of mutual trust: it is clear from both the focus group interviews with juveniles and social workers, that this first contact with the defence lawyer could give the juvenile false expectations about a positive outcome. A police officer complained that often this first meeting occurs in the hallway, just before the interrogation and does not last long.

2.4.4. Assistance during interrogation

During interrogations, three modes of intervention adopted by lawyers were identified: interruptions aimed at discussing privately with the juvenile the issues at stake; interventions to prevent leading questions; and questions addressed to the juvenile because the answer might be in his favor. Both police and prosecutors frowned upon interferences by the lawyer during the interrogation.

They invite lawyers to ask their questions only at the end of the interrogation. In all focus groups, it was pointed out that lawyers and interrogators often have disagreements. The lawyers say that many times they are forced to stop interrogations because questions are leading or badly formulated. However, during the focus group with lawyers, it emerges that perhaps a too conflicting attitude may not be in the juvenile’s best interest. A significant remark in this regard is:

“When the lawyer starts with this kind of interrogation strategy, he destroys the next chance of being considered as teamplayer. It becomes complicated to make the juvenile aware that the system is there for him and not against him”.

In the representation of different views on the type of appropriate interventions for lawyers during the interrogation of a juvenile suspect, the concept of ‘mild justice’ is interesting. This is a way to speed up the process by agreeing on the outcome. Nowadays, one lawyer indicated, it is rare to get to the trial stage, because of the widespread idea that earlier diversion techniques, including mediation, should prevail, even if that could involve the risk that, with the appealing perspective of avoiding the trial through an early definition of the case, even an innocent could admit to being guilty.

Another lawyer mentioned the evolution of the juvenile protection system over the last decade. The lawyer’s role evolved from an idle bystander in the juvenile process which was handled entirely by the judge towards a more active participant during interrogations. Evidently, this evolution process is not considered to be finished because even within the same group of participants, there were varying views on their positions towards the process and the role of a lawyer therein.

2.4.4.1. Lawyer interventions

The written records analysis however, does not show interventions by the lawyer during the interrogation. As also emerged from the focus group interview with lawyers, they intervene only if there are violations of the rights of the juvenile under investigation. With their signature the lawyers just confirm the contents of the written records, so it is not possible to assume that having their signature on the records, means that no violations occurred.

It is common practice, however, that the police ask the lawyer if he wants to clarify any points to his client. However, this is an informal and non-confrontational invitation, so this type of intervention is not recorded in the official written record. None of the written records mentioned the lawyer advising his client during the interrogation.

2.4.4.2. Checking the statement

In the cases where it was possible to analyse the original transcripts of written records, it was found that the lawyer – as well as the juvenile and the adult who accompanied him – reads, confirms and signs the written record.

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2.5. APPROPRIATE ADULT
2.5.1. Characteristics

In Italy, at every stage of the juvenile process, the presence of an AA (parents or another suitable person) is mandatory and in any case, the assistance of the Social Services Division of Juvenile Justice is guaranteed to the juvenile. In all but one examined written records of interrogations, the presence of at least one AA is recorded. Only in one interrogation, upon the juvenile’s request, the parents did not attend the interrogation even though they were present at the judicial police office.

In 20 out of 25 interrogations analysed, one of the AAs is a parent: in twelve interrogations it was the mother, in four interrogations it was the father and both parents were present in the remaining four interrogations. In two interrogations the juvenile was not assisted by a parent, but a social worker to whom the juvenile had been entrusted. In the event that the interrogation was conducted in prison, there was the prison-educator who is part of the prison’s staff. This is shown in Table 2.

<table>
<thead>
<tr>
<th>Table 2. Assistance by appropriate adult</th>
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<tbody>
<tr>
<td>Yes, by the mother</td>
</tr>
<tr>
<td>Yes, by the father</td>
</tr>
<tr>
<td>Yes, by both parents</td>
</tr>
<tr>
<td>Yes, by other person</td>
</tr>
<tr>
<td>No, right</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

Prosecutors said it is useful to get acquainted with the juvenile’s parents and to assess whether they are supportive and whether they will cooperate to look after the juvenile.

Although the law provides for the presence of the social worker, together with an AA, the analysis of written records indicate their presence only in two interrogations. In both these interrogations the social worker was a woman. Similarly, all the social workers interviewed were women. In Italy, the social workers’ professional association consists of 93 per cent women. From all focus groups it emerges that the assistance of a social worker is considered an important safeguard for the juvenile, especially at the early stage of proceedings, which can be very emotional. Social workers say that

5 Data (updated until 30 September 2012) available on: www.cnoas.it.

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thanks to their attitude and the way they act as third parties, they are able to reassure juveniles and to establish a relationship of trust with them. Social workers believe that their role may be important to understand why the juvenile has committed the offence and to design a individualised programme of intervention.

Their contact with juveniles is also helpful because the juvenile can tell them what exactly happened, so the social worker’s report becomes a strong clue to finding the truth. As a prosecutor stated, referring to both social workers and, in general, to the staff of juvenile reception centers:

“Th is first contact, I think, is also important because juveniles do not see these people as authority, and they share a few hours or a few days with them. I think they contribute positively to the genuineness of the interrogation”.

Social workers emphasise the importance of their work, which however is often underestimated:

“Sometimes they call you because it is expected that a social worker is present, but he must remain silent. Th us, whether you have a decisive role or not depends on the personal attitude of those who carry out the interrogation”.

When asked who was present during the interrogation, juveniles answered that social workers are not present during the first interrogation at the police station. It happens more often that they are present at the juvenile first reception center
or during the interrogation carried out by the prosecutor. This was underlined by lawyers and police officers according to whom social workers are indeed not present during interrogations. In practice, notwithstanding legal provisions, police did not notify social services as a result of an informal agreement between both organisations (see hereafter). Sometimes they notify them, but they do not participate:

"Among the guarantees, there is also the invitation of a social worker from social services for the Juvenile Justice Department and it is mandatory to call them. If they do not show up, it is their decision".

It seems that social workers are contacted only in particularly serious cases, in case of recidivism or on the discretion of the prosecutor and then only at the end of the preliminary investigation. The major reason of this lack of involving social services is the extra workload for them. One of the police officers mentioned a sort of ‘tacit agreement’ between the police and social workers, resulting in the fact that the police avoids to summon them to assist at the interrogations. The police decided to do so themselves. A prosecutor explains further:

“To inform the social services as soon as you record the crime would mean to overload them in vain, because many cases could be dropped afterwards.”

Despite the fact they do not admit it, social workers seem to have the function of informing the suspect about the upcoming procedure.

2.5.2. Experiences with Appropriate adults

In general, the AAs rarely intervene during the interrogation of juveniles, because the interrogators ask them to speak only at the end of interrogation. The parents and social workers are more involved in different aspects of interrogations, such as in talks held in the absence of the juvenile. Regarding the presence of the parents, the police, the prosecutors and the lawyers report different experiences both positive (cooperative and understanding) as well as negative. Negative experiences depend on the intrusive behaviour of some parents during the interrogation: they may have attempted to influence juveniles and their statements, they may have insistently defended or, on the contrary, further blamed the juvenile. These negative experiences have led investigators to ask them to speak only at the conclusion of the interrogation and to sit behind the juvenile during the interrogation.

Likewise, the role of social workers is rather marginal, as confirmed by one of the prosecutors, who said:

“The feeling of talking in private with the juvenile during the interrogation is important. I have it even when the social worker is present, because many times it is a person who knows nothing about the case and who is there for the juvenile but for the juvenile he is a stranger; an adult who I don’t say is useless but ...”.

As a lawyer pointed out, however, the relevance of the role of social workers depends on personal differences, on skills, on willingness to work as well as on the empathy and ability to believe in the successful rehabilitation of the juvenile. Police reproach the absence of social workers because:

“Th eir presence could be an additional element of connection between all phases of interrogation for the effective rehabilitation of the juvenile”.

Although the presence of social workers or other professionals during interrogation is not common, some juveniles sometimes need their support. In general, all groups recognise the presence of social workers as a positive supporting role. Both prosecutors and lawyers in some cases asked the social workers to gather information about the social environment of the juvenile. During the focus group interview with juveniles, one of the boys commented on the role of social workers as follows:

“They write what they really see. So, sometimes it’s a good thing, even if they write that you behave badly and you are one who behaves badly”.

2.5.2.1. Appropriate Adult interventions during interrogation

In one out of the 25 interrogations analysed, the written record mentioned an intervention by an AA, which was intended to provide additional information
and to confirm the juvenile’s statement. This is intervention, that is quoted at the end of the juvenile’s story, concerns a father who says having tried, without success, to contact the parents of the victim in order to clarify the innocence of his son.

It remains unclear how the police and the juvenile responded to this intervention, because in the written record of interrogation there is insufficient information: these aspects can be evaluated only ‘in person’ or mediated by an audio/visual recording.

2.5.2.2. Checking and amending the statement

In the twelve interrogations in which original transcripts of written records were analysed, it was found that the written record was read, confirmed and signed by the parent or the adult who attended the interrogation. Each written record contains the initials L.C.S. which indicate the reading, the confirmation and the signature of the written record. It is undiscernable, however, whether and how participants actually were given the opportunity to make changes to the written records.

2.6. ASSESSMENT

It is clear, from all focus groups, that Italy has not yet developed a method for assessing the suitability of the juvenile to be interrogated. None of the juveniles interviewed has ever felt that someone tried to understand whether or not they were ready to be interrogated.

Any attempt by the police to assess the juvenile appears more accidental than due to an explicit request by the prosecutor or legal instruction. The assessment of juveniles, if there are any, are sporadic and are carried out by the police immediately before the interrogation.

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Police mention cases when they evaluated the juvenile’s psycho-physical condition and his capacity to link and to contextualise the chronological history of events during the interrogation: the police underline that, if the juvenile talks about situations without any logical nexus, to interrogate him is totally useless.

During the focus group interview the police officers complain about the difficulty of this task, because they do not consider themselves skilled enough to assess juveniles. If there is evidence of a psychological incapability or another type of problem (health, for example), the police can only mention it on the written record: on the basis of this, the prosecutor will have to evaluate the case. At the investigation stage prosecutors assess the juvenile when they read the documents in their possession, therefore they are not face to face with the juvenile. Based on this assessment they may decide at this stage whether or not to delegate the interrogation to the police.

During this assessment, prosecutors have in mind the assessment of juveniles with the aim to check if the juvenile is liable to prosecution and to evaluate the opportunity to ask for any civil measure to be imposed. They say that the request for more information about the juvenile’s family background from the Youth Social Services or the Local Services is rarely made when the juvenile has already been dealt with by Social Services before. In small municipalities, this request is not made at all because the waiting times are too long. In some difficult cases, prosecutors ask for the participation of Juvenile Social Services. When social workers find out that the juvenile is unfit for an interrogation they ask for the involvement of other professional actors, such as psychologists or neuropsychiatrists.

One social worker said that there are some parameters on which police normally rely to assess the ability of the juvenile to understand:

“Of course the police officer must refer to evaluation parameters that are commonly accessible, asking the juvenile where he lives or how much distance there is from his home to here, for example. In short, there is a shared practice”.

However, nobody believes that such a preventive assessment would have effective consequences on how the interrogation is conducted. Furthermore, nobody believes that those who do this type of assessment are fully competent to do so.

2.7. INTERROGATION
2.7.1. Characteristics
2.7.1.1. Timing

The juveniles in the focus group interview mentioned waiting between five and
ten hours at the police station before the validation of their arrest. The other

focus groups argued that, in establishing the time of the interrogation, the afternoon is preferred not to cause the loss of a school day: however, 20 out of 25 interrogations were conducted in the morning.

2.7.1.2. Duration

In most of the written records the ending time of the interrogation is not recorded. Only in eight out of 25 interrogations this information was available. The duration of the interrogation varied between five and 65 minutes. Table 3 shows the division of these eight interrogations over the various duration clusters.

Table 3. Duration of interrogations

<table>
<thead>
<tr>
<th>Amount of written records analysed</th>
<th>≤ 15 minutes</th>
<th>15–45 minutes</th>
<th>45–65 minutes</th>
<th>Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25</td>
<td>23</td>
<td>3</td>
<td>17</td>
</tr>
</tbody>
</table>

2.7.1.3. Number of interrogators

Usually, there are two police officers present during the interrogation, whilst it is carried out by one of them. The other officer is present to write down the written record of the interrogation. In some interrogations both the prosecutor and a police officer conduct the interrogation. This is does not preclude, however, that the second police officer can ask questions. Written records analysis has not shown any particular trend in this respect. Out of the 25 written records examined, the interrogation was conducted by one officer in 12 interrogations and in the remaining 13 interrogations it was carried out by two interrogators.

2.7.1.4. Gender of interrogators

The analysis shows a prevalence of male police officers. There was only one case in which the interrogation was conducted by at least one female police officer. In one interrogation it is known that two police officers conducted the interrogation, but their gender remains uncertain, since the names have been erased from the written record as a matter of privacy (see table 4). On this point, a specification is required: in Italy the percentage of female police officers is less than 10 per cent of the total as compared against the 22.5 per cent in the Netherlands, 25 per cent in England and Wales and 35 per cent in Germany.6

6 Data available on www.poliziadistato.it/articolo/19068-Europa_le_donne_in_divisa/. For more information, see: www.difesa.it/Content/Documents/30991_serfemm.pdf.

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Table 4. Gender of interrogators

<table>
<thead>
<tr>
<th>Amount of written records analysed</th>
<th>Male Female Male-Male Malefemale Unknown</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25</td>
</tr>
</tbody>
</table>

2.7.1.5. Interrogators’ behaviour

From the analysis of the written records it was impossible to evaluate the interrogators’ behavior, because this type of data does not provide information on this matter. The examined written records are rigidly structured according to a predetermined pattern, extremely formal and concise (see supra paragraph 5.2.2.). During the focus group interview, some police officers describe a formal role during the interrogation, insisting that it is not possible to do anything except what the delegation by the prosecutor and the law requires. On the other hand some police officers describe a more fatherly approach during the interrogation, which was well expressed by one participant: “If the juvenile takes a helpful attitude (...) the police officer, behaving like a parent, gives him a telling off”.

As stated above, information about this type of attitude is not available in the written records. However several written records in the end contain an apology from the juvenile for his actions. Th is practice seems to be so common that, in 13
out of 25 written records there is a partly-standard formula in which the juvenile says he is repentant and promises that he will never breach the law again. Remembering that during the interrogation the juvenile is under investigation, not indicted, this may be considered an indication of the interrogator’s behaviour discussed above.

2.7.1.6. Interruptions and set-up
The only case in which the interrogation was completely stopped concerned a juvenile who, when asked if he intended to answer, was deemed unable to express his will because of a mental disorder.

It emerged from the focus groups with the police and lawyers that there are cases in which the lawyers ask the police to temporarily interrupt the interrogation in order to consult with the juvenile. The written records however did not show such interruptions by the lawyer. The written records do not provide information on the setting of the interrogation room. Normally though the suspect is sitting on the other side of a desk and, when present, a parent sits behind the juvenile.

The lawyer is (also) present, he is seated alongside the juvenile. The interrogating police officer(s) will regularly be seated opposite the juvenile.

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2.7.2. Interrogation model
2.7.2.1. Information conveyed at beginning of interrogation
From the analysis of the written records, the interrogators provide a range of information at the beginning of the interrogation, such as: information regarding the reason for the interrogation, the offence of which the juvenile is suspected, the type of evidence available to the police and the procedural rights of the juvenile. Also, all the people participating in the interrogation are identified: the prosecutor and/or the judicial police, the lawyer and the parent(s) or possible other adult(s) accompanying the juvenile.

Having only the written record of the interrogation which, as mentioned, follows a rather standard configuration, information on how this information is communicated in practice is missing. However, there is reason to believe that the way the juvenile is approached changes according to the personality of the person providing the information. As emerged during the focus groups, both the police and the lawyers have given different examples of how the juveniles are informed of their rights and of how the procedure of the interrogation is explained to them. Some are more careful to provide the information by adapting the language to the understanding of the juvenile whereas others are more careful to literally read out the text of the law. Also it is necessary to emphasise the difference in approach used with juveniles considered more astute (towards whom the police tend to maintain a more detached attitude) and the way in which more vulnerable juveniles are approached. More detailed information about his difference in treatment is discussed below.7

2.7.2.2. Approach
Generally speaking, when choosing an interrogation strategy participants (prosecutor and/or the police) avoided taking a stand on either side regarding the choice between giving priority to the age (being a juvenile) or the status (being a suspect). On the one hand, the importance of adopting all procedural safeguards provided for adults in case of juvenile suspects is highlighted. Furthermore, the fact that the suspect is of a young age makes the approach more gentle and empathetic, with regard to the questions asked and the language used with the purpose of putting the juvenile at ease. The importance of taking into account the juveniles social context as well as their mental capacity is also emphasised as it may enhance the possibility of understanding the reasons that have led the juvenile to commit the offence.

7 See infra paragraph 5.3.3.

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Prosecutors argue that the approach to juveniles is, and should be, different from the way adults are treated. Juvenile proceedings are characterised by a greater focus on understanding the juvenile’s personality and the difficulties he
is experiencing, rather than only on investigative purposes. In this regard one prosecutor noted: “Perhaps there should never be a desk in the middle”.

According to the focus group respondents, particularly the groups of lawyers and prosecutors, the idea is that juvenile proceedings have a dual purpose that is reflected in the approach used. On the one hand, the aim is to understand and establish the truth (investigative purpose), resulting in a more formal and aloof attitude for judges, and in a technical defense for lawyers. Th en, if the accused is found guilty, the aim is also reeducational and rehabilitative. Th e crime is seen as an ‘evolutionary accident’ that should not lead to stigmatisation of the juvenile but, on the contrary, should mark the beginning of a process of empowerment and education towards legality, resulting in an more empathetic approach and relational closeness.8

Th e police express different opinions appearing to be less aware of this dual purpose of proceedings, compared to respondents from other focus groups. However, the police tend to emphasise a difference in approach with respect to the age of the juveniles and with respect to the difference between first offenders and recidivists. During the focus group interview the police say that it is normal to have a different attitude towards a 14-year old boy, compared to a guy who is almost 18 years of age. Th e difference between first offenders and repeat-offending juveniles seems to justify a change of attitude for the police respondents. According to them, this is explained by the increased awareness and knowledge of the criminal proceedings on the part of the juvenile recidivist.

2.7.2.3. Interrogation techniques

Information on interrogation techniques is not available in this study because of the type of data: written records do not show the type of techniques used. During the focus groups, no evidence emerged that special interrogation techniques are being used during the interrogation of juvenile suspects. Moreover, in Italy there are no studies on this matter. Th e lack of specific techniques could derive from an orientation to make the system as much flexible and adaptive as possible to the peculiarities of each single case.8 Perrella and Zizza 2012, p. 291.

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2.7.2.4. Confrontations

An overview of the evidence held against the juvenile suspect was documented in about half of the written records. In most of these cases there are multiple sources of evidence with which the juvenile is confronted. As shown in table 5, the different types of evidence are: statements made by witnesses, the victims and the co-suspects and other documents such as the annotations of the police intervention, the seizure report or phone records.

Table 5. Confrontations with evidence (multiple response group)

<table>
<thead>
<tr>
<th>Evidence</th>
<th>Yes (%)</th>
<th>No (%)</th>
<th>Total (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Witness statement</td>
<td>4 (33,3)</td>
<td>8 (66,7)</td>
<td>12 (100)</td>
</tr>
<tr>
<td>Victim statement</td>
<td>6 (50,0)</td>
<td>6 (50,0)</td>
<td>12 (100)</td>
</tr>
<tr>
<td>Co-suspect statement</td>
<td>3 (25,0)</td>
<td>9 (75,0)</td>
<td>12 (100)</td>
</tr>
<tr>
<td>CCTV evidence</td>
<td>1 (8,3)</td>
<td>11 (91,7)</td>
<td>12 (100)</td>
</tr>
<tr>
<td>Other documents</td>
<td>10 (83,3)</td>
<td>2 (16,7)</td>
<td>12 (100)</td>
</tr>
</tbody>
</table>
| Unknown                      | – –   13 (100)

Th e juvenile suspect’s remarks are often written down at the bottom of the written record, as was the case in 13 out of 25 written records in the sample. As mentioned above, in these 13 written records there is a partly-standard formula in which juveniles say they are sorry and promise that they will never break the law again. Th is is always an expression of repentance on the part of the juvenile (e.g. “I am sorry for what happened, it will not happen again”). Moreover, at the bottom of the written record, there is a standard formula asking if the suspect has anything else to add. In none of the interrogations did the juvenile make use of this right.

2.7.3. Suspect’s behavior

2.7.3.1. Suspect’s strategy

All juveniles interviewed confessed. If this did not happen immediately, it seemed to depend on the fact that initially they did not know what the evidence
held against them was.
Similarly, from the written records analysed, it emerges that only in one interrogation a juvenile used her right to remain silent. In all other interrogations, the juveniles answer questions put to them by the police and they give their version of events. Mostly, they tell how they found themselves involved in an off ense unwittingly or they admit their responsibility.

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Th e main reason for the juvenile to exercise the right to remain silent during interrogation is probably that they wish to wait for the investigation to be completed and to avoid providing information that the police might not possess yet. Th e situation is diff erent for juveniles involved in organised crime: they are aware of the strategy to be adopted and in most interrogations they remain silent.
It oft en happens, however, that the juvenile wishes to confess and the lawyer advises him to do so. Th ere are two reasons, according to lawyers who participated to the focus group, for them to give this advice: from a strategic point of view a collaborative attitude has a positive eff ect on the proceedings and from an educational point of view, admitting responsibility can be a fi rst step away from a deviant career. Prosecutors pointed out that in some interrogations juveniles confessed because of their desire to receive help in getting out from their diffi cult familiar and social contexts, where they are, sometimes, even encouraged/forced to commit the crime.

2.7.4. Recording of interrogation
2.7.4.1. Written record
According to the italian legislation, interrogations must be audio-recorded only if they are carried out with detainees. Usually, the fi rst interrogation of a juvenile is not recorded because the juvenile will not be detained at that time. Police do produce a written record containing the the questions posed and answers given, interruptions, et cetera. Th is record will serve as the basis on which the prosecutor will make his own assessments and evaluate any further step to be taken during the investigation stage. Also prosecutors produce only a written record of the interrogation. Prosecutors realise how diffi cult it is to really understand the juvenile and, therefore, to be able to write in the record what he really means:
“He is a child, he has his own way of expressing himself and his own way of interpreting the question. And I am an adult! Oft en I have a way to interpret the answer in a diff erent way. I realise that, when interrogating, he gave me an answer and, when I was writing, I gave that answer a diff erent meaning than what he wanted to convey. My diffi culty is oft en to come to a point at which we can understand each other and we can communicate in the same language”.

How diffi cult it is ‘to put the interrogation on paper’ was highlighted also in the other focus group interviews. Respondents oft en voiced complaints about the poor quality of police reports. Both juveniles and social workers remark that the
Although the responses of the juvenile are written within quotation marks, some doubts remain about the fact that it is a literal transcription: often, in fact, more formal or bureaucratic expressions appear and they do not seem to resemble the way juveniles would normally express themselves.

2.7.4.2. Audio or audio-visual recording of interrogation

Although audio or audio-visual recording of interrogations would be an additional guarantee for the juvenile (see infra paragraph 5.4.). Here is what one lawyer said during the focus group:

“\[In our system, an assessment of the statement is not provided in the course of time: if one gives me the outcome of an interrogation, what he gives me is put together in a package and that is it, it is not touched anymore. For better or for worse, that’s it\]\.

Especially juveniles mentioned the importance of audio-visual recording of the interrogation. All juveniles in the focus group think that this would be a way to avoid that police misrepresent what they say. Here are some answers of juveniles about what they think of the possibility of audio- or video-recording the interrogation:

“It would be good”; “It’s for our own protection”; “Today or tomorrow, at least, there’s that”; “Of course, because sometimes you say something and the police say another thing”.

3. VULNERABILITIES

In focus group interviews some vulnerabilities were mentioned that depend on different factors such as: vulnerabilities related the suspect young age and his personality not fully developed yet; other vulnerabilities that depend on organisational factors (such as the difference between rural and city context) and vulnerabilities related to nationality. The type of crime, the emotional ability of the juvenile and his cognitive development were also mentioned. On the other hand, a weak relation with juvenile gender was found. Anyway, focus group professionals don’t connect mental abilities or drug use to vulnerability.

3.1. VULNERABILITIES RELATED TO AGE

Vulnerability is explicitly considered in all focus groups (except for the one with juveniles) as a personal condition related to the age of the juvenile. In fact, age-related vulnerabilities are considered an important dimension in approaching the juvenile suspect during interrogation. According to the respondents, being involved in criminal proceedings is a traumatic event in any case and even more so for a juvenile, who might also fear and suffer the loss of his parents’ trust.

Prosecutors specify that juveniles are also vulnerable when they are adolescent since this stage of life involves a series of emotional problems. In the words of a prosecutor:

“Imagine a boy between fourteen and eighteen years old who finds himself in a state of psychological weakness and of inner problems, then include him in criminal proceedings and these problems become more pronounced”.

Quite often, during the focus groups, in illustrating practical examples, professionals highlight a distinction between juveniles aged fourteen and juveniles who are about eighteen years old. However, the age of the juvenile is considered not merely as a personal detail but as an indicator of greater experience and awareness.
“It is different to interrogate a fourteen year-old boy in comparison to interrogating an eighteen or almost eighteen year-old boy, who is used to being interrogated, to our faces, to the judicial sphere”.

However, none of the professionals believes it is appropriate to treat young adults like adults.

3.1.1. Mental ability
During the focus group with social workers, they mentioned some cases where juveniles with serious cognitive problems were interrogated and for whom it was necessary to involve specialised staff for their care. The police reported that when a juvenile suffers from a mental disorder, the interrogation is interrupted and steps to close the investigation are taken, sometimes with the support of a medical certificate submitted by the lawyer.

Respondents in other focus groups didn’t discuss the mental ability of juvenile suspects nor reported cases of mental disability. They consider juveniles vulnerable in a different way, namely if they illustrate that they are less aware of their surroundings and what is happening.

3.1.2. Emotional ability
The vulnerability of juveniles is also explicitly linked to the affective problems related, in particular, to adolescence. Here is how a lawyer recognises the condition of immaturity that characterises juveniles:

“Th e juvenile is a person weaker than the adult because he is less able to manage his feelings and emotions”.

Social workers, in particular, are requested to assess whether it is appropriate to separate juveniles from their family and accommodate them temporarily in a residential home. During the discussion between social workers about vulnerability of juveniles, a common opinion was that, to listen to juvenile suspects and to know their feelings of anger or victimhood helps to understand their experiences, and the value of what lies behind the offence. Often, communication between adolescents and social workers finds its major obstacle in the juveniles’ difficulty to trust the other, the unknown adult. In fact, this situation puts the juvenile in a defensive position that can preclude him to find a balance, even if precarious, to move forward.

3.1.3. Cognitive development
Juveniles are considered more fragile, because their personality is not yet fully developed. Therefore, during the interrogation, juveniles under pressure of the interrogation might contradict more easily what they declared earlier (e.g. in a prior interrogation or in the same interrogation). A prosecutor reiterated:

“Beyond the purpose of investigation, the interrogation becomes a means of acquiring information about the condition of the juvenile. If you keep this in mind, you don’t care to bring the juvenile down, as you can do with an adult”.

Above all, the incomplete cognitive development of juveniles may well affect their possible misperception of reality at the time of committing the offence and their effective understanding of their actions. One of the police officers reported: “Being a juvenile often means committing crimes without knowing at that time that you are committing a crime”.

During the focus group with juveniles, actually, a lack of assumption of responsibility towards the crime was found. One of the juveniles said he committed the crime just because someone told him to do so, for example:

“When they questioned me why I had committed this crime, I said because someone told me to open a deadbolt and I opened it”.

Only one of the boys explicitly said that the most difficult thing for him was to assume his responsibilities.

3.2. TYPES OF CRIMES AND VULNERABILITIES
The lawyers reported a collapse of the existing safeguards when a juvenile is indicted for a serious crime. According to them, in case of a serious offence, prosecutors and police officers are upfront biased and take a more resolute attitude towards juvenile suspects of such serious offences. In fact, the police mention the type of offence as a second thing to be taken into account, in addition to age:

“It depends also on the person whom in front of us, because many times there are well-bred
juveniles who, for an error or for complicity, wind up in situations bigger than they are”. Some juveniles are considered more prone to committing certain types of offenses. For instance drug pushing. Some others seem to have been induced to commit a crime by their families who are aware that below the age of fourteen they are not liable to prosecution, and below the age of eighteen there are milder consequences for committing an offense.

3.3. VULNERABILITIES RELATED TO TYPES OF JUVENILES

3.3.1. Boy vs. girl

Statistically a juvenile female is less likely to commit serious crimes.10 Lawyers have had very few experiences with female juvenile suspects. Nevertheless, according to prosecutors, as well as police, the gender of a juvenile suspect is not an important variable in orienting their approach. One difference mentioned by lawyers is that – in comparison to boys – girls normally have more structured characters and illustrate greater cunningness:

“In general, it is much easier to manage boys because they are weaker, objectively, they are less capable of great insights. Girls are much more structured, they are able to hold up better and they understand more quickly”.

First offender vs. recidivist

Police and prosecutors take a different attitude toward juveniles based on the existence of prior criminal records. The police are more careful to explain the situation and their legal rights to juveniles who are alleged to have committed a criminal offense for the first time, taking on a more paternalistic attitude, because they might only have made a mistake. In contrast to this, they are more formal and detached when the juvenile is a repeat offender. However, all the police officers think that this kind of prejudice is not correct:

“Th e interrogation is an act aimed at the search of the truth! I don’t care if you have committed twenty-five crimes, I have to find out if it was you or not, and what happened”.

The attitude of prosecutors towards juveniles also varies on the basis of their propensity to break the law. A prosecutor affirms, similarly to the police:

“If it prevails the status of juvenile or the status of suspected, it should be calibrated to the specific case. At the interrogation, you realise if you have in front of you a juvenile who made a mistake or a person already deviant. Th en, you adjust accordingly the approach”.

10 Data available on http://dati.istat.it/. Considering the total number of juvenile perpetrators of crimes between 14 and 17 years old in Italy reported/arrested by police, males are 83,7 per cent and females 16,3 per cent.

3.3.2. Suburbs vs. city

Professionals did not mention differences between juveniles from urban areas and juveniles from rural contexts. Juvenile Courts’ jurisdiction, being based on districts, include both the city and the rural areas. If the district covers a wide area (which for instance is the case for Palermo’s province) and the offense is committed in peripheral areas or the juvenile lives in a peripheral area, prosecutors delegate the interrogation to the local police. One prosecutor explained:

“Th e area is very wide, so I have to delegate to the local police who don’t have the skills, they are not used to interrogate a juvenile”.

For this reason, the juvenile who cannot reach the Juvenile prosecutor’s office is, in a sense, more vulnerable than the juvenile who is interrogated in the city by the prosecutor. Social workers suggested that lawyers and police who work with juveniles should all be specialised to remedy this.

3.3.3. Nationality

Neither prosecutors nor police mentioned the impact that differences in nationality can have on the vulnerability of the juvenile suspect. However, social workers and lawyers stressed the necessity of taking a different approach with foreign juveniles, because of the diversity of cultural parameters, the language barrier and the juvenile’s own perception of responsibility.
A similar experience was reported by prosecutors and police related to juveniles arriving from Northern Africa across the Mediterranean Sea and who are accused of smuggling. They said that these are situations of emergency that endanger all the existing guarantees and that, unfortunately, occur quite often in Southern Italy. A lawyer told the story of two fourteen-year-old juveniles who had been wrongly accused of smuggling. Because of an error, on board of a ship that stowed two hundred migrants, the two juveniles, like all other migrants stowed clandestinely into the ship, were interrogated by the police in English and were assisted by one single lawyer.

3.3.4. Family and social context disadvantages
The disadvantage associated with family and social context of juvenile suspects, which is often characterised by severe unfitness or unhealthy growth, is mentioned in nearly all focus group interviews.

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Prosecutors pointed out that the commission of a crime by a juvenile is often a symptom of need and expression of a call for help. In some cases, the decision to conduct the interrogation personally, rather than delegating it to the police, is dictated by the desire to understand whether there is reason to remove the juvenile from their social and family context that might otherwise take them back to committing crimes.

Even lawyers expressed this thought in relation to their experience:
“We all know that, when a juvenile embarks upon the criminal path, we are already at an advanced stage of deviance, that is the last symptom. You discover behind his back: sexual abuse, drugs, violence, abandonment, loneliness ... Unfortunately, we see that it is so”.

At the same time, to know the juvenile’s parents helps prosecutors to guide the decision on precautionary measures. On the basis of the suitability of the family context, prosecutors may decide whether to separate the juvenile from the family or not. To get acquainted with the juvenile’s parents is useful for appreciating whether they are suitable parental figures and whether they will cooperate in looking after the juvenile.

There are also some differences related to the attitude of juvenile’s family regarding the willingness to cooperate during the interrogation. Lawyers talked about ‘cultural inducement’ or about ‘crime legacy’ for juveniles who tarnish themselves with crime because they have a relative who has committed a crime: “If we would take statistics, we would realise that most of the crimes are committed in families where crimes have been committed already and where the parents are detainees themselves”.

The habits of the family might have influence on the interrogation, because juveniles may have less propensity to critically review their actions, as both lawyers and prosecutors pointed out. One prosecutor said:
“In families where there are criminal records, there is a lack of awareness of the negative value of crimes. When I am questioning a boy whose whole family has criminal records for drug dealing, how can I empathise with that world? They can tell me, ‘You don’t know anything about our world and you’ll never know’. There is a great distance between their way of seeing things and the way you perceive things”.

4. SAFEGUARDS AND BEST PRACTICE
All in all, the respondents consider the existing safeguards for juvenile suspects in Italy appropriate, even though they have pointed out some aspects which can be improved. To provide for a complete documentation of interrogations through audio-visual recording in addition to written records seems to be a strong demand on the part of all respondents. This method of documentation would be an important additional safeguard for juveniles within criminal proceedings. It would meet the need to make clear, visible and verifiable ex post, that manipulative interventions have not been carried out. The complete documentation might be a good tool to test, a posteriori, the reliability of the juvenile.

Learning how the investigator related to the witness, what kind of questions...
he asked and what were the reasons expressed by the juvenile would allow to fully appreciate the extent of cognitive contribution collected for probative purposes.

4.1. SPECIALISATION & TRAINING

The specialisation of professionals who are involved in the interrogation process is felt to be necessary in all focus groups, save for some exception within the police focus group.

Among desirable practice, lawyers require that all lawyers who assist juveniles (not only those registered in the duty lawyer scheme as court-appointed lawyers) should be specialised in juvenile law. Lawyers hope that the specialisation becomes a requirement of the utmost importance not only for those assisting juveniles but for anyone involved in the interrogation of juveniles. Indeed, according to lawyers, prosecutors should not delegate those interrogations to the police but should carry them out themselves, because of their great degree of specialisation.

"The specialised subject has a different approach, particularly in view of the final design: the boy who enters in the criminal circuit must be rehabilitated, with the educational purpose to make him understand the error and to put him on a different route."

For the same reason, prosecutors would like that all lawyers are specialised in the juvenile judicial branch. Only one prosecutor observed a lack of training for prosecutors. In fact, they become specialised more through the experience over time than through special training courses. That’s the main feature and the main issue of the prosecutor’s specialisation: experience is the main key to gain specialisation.

In the focus group interview with police, regarding the question if there is a need for specialised actors, all police officers answer that the actors are already specialised in their respective fields and therefore, in a ‘minimal vision’ of interrogation, there is no need. Despite this, one police officer, in the focus group, expressed the hope that specialisation of interrogators should soon become a common prerequisite:

“I hope that this meeting is a first step to define a protocol (...) on how we should approach the juvenile, (...) in order to have highly specialised human resources (...) and not compel us to acquire experience of what we need in the field.

4.2. UNDERSTANDABLE LANGUAGE

In response to the question about what good practices exist or should exist both in the focus groups with prosecutors as well as with lawyers the use of understandable language emerged. Also police officers – although they do not state it explicitly as a good practice – point out the importance of the juvenile understanding what the police are saying especially if the juvenile speaks in a local dialect and not in Italian language:

“Obviously, you must stay on the same level of the juvenile. If he doesn’t understand the Italian language and speaks only local dialect, it’s clear that I try to explain to him in dialect, because my goal is that he understands”.

For lawyers, how ‘friendly’ the attitude of the interrogator is, depends on many variables. Some police officers and prosecutors communicate in an understandable language to the juvenile (for example, some children speak only local dialect), some do not. In the same way, according to juveniles, there are some lawyers “who speak to you bluntly” and some do not.

4.3. PARENTS/RELATIVES’ PRESENCE

In all focus groups, the presence of an AA is considered an important safeguard for the juvenile during interrogation. Sometimes, after the interrogation, prosecutors feel they have to talk with the juvenile’s parents or their guardians who take care of him in order to give them educational advice.

However, in the focus groups with police, prosecutors and lawyers, the participation of parents emerges as a troublesome aspect of the interrogation. They emphasise the validity of psychological support and care of parents during the interrogation but, at the same time, they noted how difficult it can be for juveniles to admit that they committed the crime and thus discrediting themselves in front of their parents.
Local dialect refers to regional and provincial varieties of the Italian language.

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It is a common practice among police and prosecutors to ask parents to sit behind the juvenile, so that he cannot see signals, facial expressions or be influenced by the emotional state of the parents. Even lawyers point out that, often, the parental figure needs to be controlled, as they can become overly intrusive in the sense that they either try to defend or to scold their son/daughter. The existence of these problematic situations is confirmed by the police, who often have to send a parent away. In the words of a police officer:

"The parent is a figure of psychological support, and that’s it! Though his presence and not his action. I tell him clearly. It happens so many times that I have to distance them."

And in the words of one prosecutor:

"Parents should not interfere in any way. They are there to assist their child, the boy should feel reassured simply by their presence (...) otherwise they can leave."

4.4. THE IMPORTANCE OF TEAMWORK

A dimension that was mentioned by all participants is the importance of teamwork. It is widely accepted that a synergy among lawyers, social workers, prosecutors and police would be an ideal condition to cooperate and would ultimately be in the best interest of the juvenile.

A good practice, in the opinion of social workers, would be to involve social services from the very early stage of the proceedings and during the interrogation. Social workers also use other professionals such as psychologists, when they believe that the juvenile is emotionally fragile.

Police regard as good practice the presence of youth social services, hoping that it could facilitate the social reintegration of the juvenile offenders. Sometimes prosecutors involve social workers and, if required, also juvenile’s parents, educators and psychologists. In the final recommendations on good practices during focus group interviews, prosecutors indicated a lack of cooperation by lawyers who, in their opinion, should be aiming at the juvenile’s rehabilitation:

"Lawyers, in my opinion, would have much to gain from a specialised view to support and cooperation but often this is lacking. The prosecutor is not the antagonist of the lawyer!"

Lawyers, on the other hand, complain about how often prosecutors delegate interrogations to the police, depriving them of the opportunity to have an overall view of proceedings. Even in the case of the lawyers, the collaboration between specialised individuals would be a key medium for a long-term design of juvenile offenders’ rehabilitation. In addition to social workers, lawyers sometimes make use of criminologists or psychologists. They consider the support of other professionals useful in order to understand the personality of the juvenile. They identify as desirable the opportunity to avail themselves of such experts, which is often lacking. As one lawyer said:

"The only aim that we all have in common is that the juvenile gets out of the criminal circuit he got involved in as soon as possible. (We should be) a team, in which everyone contributes with his own expertise to help the juvenile."

5. CONCLUSIONS

As reported in the legal analysis which is part of the overall project, the Italian juvenile justice system is highly geared toward the protection of safeguards of the suspect of a crime. In this legal and operational framework, the actors involved perceive the phase of the interrogation of young suspects as marginal, which cannot prejudice the existing guarantees.

As emerged both in the various focus groups and in the analysis of written records there are some major problematic areas. The main controversial areas to take into account are: a) the role of the actors involved; b) the communication between institutional and social actors; c) the specialisation of the professionals involved in the interrogation and d) the need to provide a more complete and reliable recording of interrogations.

With regard to point a), the focus groups clearly illustrate that the actors who seem to play a leading and crucial role during the interrogation of a suspected juvenile are prosecutors, police officers (delegated by prosecutors) and lawyers
whereas the juvenile himself appears to play a rather passive role. In fact, the juvenile suspect seems to be the ‘object’ of interrogation instead of ‘subject’. The juvenile is seldom, if ever, supported by social workers, as widely noted in this chapter: they intervene only for the most serious cases. Social workers play an ambiguous role insofar they seem to provide more help to the ‘system’ rather than to the juvenile. In fact, they have a marginal role that, according to respondents in the focus groups, should be strengthened. In fact, the absence of social workers during the interrogation is considered a failure in the system of procedural safeguards for juveniles.

Concerning point b), the focus groups showed a lack of communication between institutional actors. For prosecutors, this lack of communication is linked to a distrustful attitude towards the way in which juvenile lawyers exercise their mandate; in contrast, for lawyers, there is a tension between the juvenile’s interests and the need to prepare their defensive strategy: a tension that sometimes may result in ambiguous forms of communication with other actors.

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With reference to point c), a strong demand emerged for planned and specific training focusing on techniques of interrogation. To date, the training of prosecutors and police mainly consists of gaining experience ‘on the job’ and therefore, the way each actor plays his role is strongly connected to his individual attitudes and predispositions. This is considered problematic by prosecutors and social workers but also by lawyers, who strongly argue the need for a greater specialisation of all colleagues. As public prosecutors claim, they do not participate in specific training or updated programmes, also resulting in specialisation through gaining experience ‘in the field’. 13 With respect to lawyers, the applicable legal framework makes specialisation a problematic issue. The involvement of specialised juvenile lawyers is an asset, but conflicts with the juvenile’s freedom of being assisted by a chosen lawyer, who is not obliged to attend specific training. In Italy, in fact, while juvenile court-appointed lawyers must be enrolled in a special register and follow a specific and validated training, chosen lawyers do not have the same obligation and potentially have not had specific training in the juvenile justice field.

With regard to point d), the interviewed lawyers, juveniles and social workers support the need for more complete and reliable techniques of interrogation recording. The analysis of the written records, in fact, revealed a recording method that is of little to no value, for example, with respect to the question which rights have been communicated to the juvenile suspect. Also, the standardised formula through which it the juvenile’s self-reproach is shown, reflects an unreliable picture of interrogations.