



Main Office	AGEG c/o EUREGIO	Enscheder Str. 362	48599 Gronau (Germany)
Project Office	AEBR c/o WeWork	Stresemannstraße 123	10963 Berlin (Germany)
AEBR Antenna in the EU	Office of Extremadura in Brussels	Av. De Cortenbergh 87-89	1000 Brussels (Belgium)
AEBR Info Centre in the Balkans	Institute for International and CBC	Terazije 14/14	11000 Belgrade (Serbia)
AEBR Info Centre in Ukraine	Univ. Simon Kuznets (KhNUE)	pr. Lenina, 9a	61001 Charkiw (Ukraine)



FINAL REPORT BY THE EXPERT

Advice case title: Facilitating youth mobility across the borders

Full official name of the advised entity: EGTC European Region Tyrol
- South Tyrol - Trentino

Name of the expert contracted for the advice case: Ivan Curzolo

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I. Executive summary

The cross-border area between Austria and Italy is characterised by a strong degree of cooperation. The involvement of children and youth in specific processes of twinning, class exchanges, mutual learning activities is very much promoted by the local governments throughout the schools and regional training institutions. When it comes to children below the age of 14 years old, however, this cooperation is partially hampered by the need of a specific authorisation for the Italian children – issued by the police authorities – in case they go abroad without being accompanied by the parents. This paper tries to better understand the issue, identifying the main Laws and administrative provisions that are ruling the matter in both countries, understanding the *ratio* of these provisions and assessing whether they appear in line – or not – with the current legal framework also at EU level. The objective is to select some possible solutions that could overcome the obstacle, either by modifying specific parts of the regulatory framework or simply by suggesting a different interpretation of the already existing rules that could potentially offer a degree of flexibility. Additionally, the document tries to put the analysed legal framework in a broader context, checking how the same issues are differently approached in a selected number of countries to stimulate the debate whether experiences of others could be introduced in the concerned cross-border area by innovative solutions. The proposed solution for the case is two-fold: the amendment of the Italian Law n. 1185 of 21 November 1967 by mean of an intervention of the Italian Parliament (which makes the case rather complicated) or the revision of the administrative provisions allowing a higher degree of flexibility.

II. Background information

In the Euregio Tyrol – South Tyrol – Trentino cross-border region, schools and youth organisations are very active and there is a meaningful number of exchange projects that have been and are still organised and implemented with different purposes. In particular, the progressive digitalization processes that are characterizing current times and significantly impacting and changing people's lives and their working context is considered a priority at different levels. The EGTC recognizes of outmost importance the preparation and education of children, girls, boys and young people - since an early age - to tackle the new challenges the society is facing and the consequent opportunities so that they are ready to succeed in gaining the most from the various possibilities that the digital world is offering and at the same time being able and aware to recognize the risks it entails. Just to name a few of these events, within the Euregio Tyrol – South Tyrol – Trentino, the offer goes from the Euregio Summer Camp, which places an emphasis on languages, at the Euregio Sport Camp, at the Youth Festival Euregio, to the Euregio Youth Wind Orchestra.

However, in order to facilitate all these different initiatives, it is necessary to overcome the legal obstacles that youth groups and schools in South Tyrol and Trentino are currently facing whenever an exchange of young people under the age of 14 is organised in Austria.

To be able to participate in an excursion or a cross-border meeting, South Tyrol and Trentino children below 14 years must in fact be in possession of a special permit from the police headquarters competent for the territory, which implies a considerable bureaucratic burden. As a matter of fact, the crossing of the border between Italy and Austria by unaccompanied minors is subject to two different legal and administrative

systems (Italian and Austrian) which envisage different administrative requirements aimed at ensuring the best interests of the children. The specific requirements on the Italian side - however - hinder their free movement in a cross-border environment for the purpose of carrying out cultural activities, educational or sports in the other country or share school activities. The obstacle itself does not stem from the requirement of such authorisations that is necessary in both countries, but from the requirements contained in the specific Italian provisions. These requirements are established in Italian laws, regulations and administrative acts that refer, in general, to the crossing of internal borders of the EU by unaccompanied European citizens: **whilst for Austrian children a plain informal declaration of the parents or the persons having legal responsibility of the minors is enough, for Italian minors, there is a need that the authorization drafted by the parents or tutors is validated by an authority.** It is of outmost evidence that when applied to cross-border areas, these requirements hinder the full development and training of minors, by considerably limiting their possibilities of fully benefiting from the opportunities that arise on both sides of the border in the field of education, cultural, sports and leisure. They will also make it impossible to make appropriate and efficient use of the related infrastructure and services in the cross-border region. Undermining, in this way, one of the objectives of the EGTCs or CBC cooperation in general, which is also supporting the sharing of public infrastructures – also for economy-of-scale reasons.

These are legal or administrative barriers that become very burdensome, as soon as transit ceases to be sporadic and becomes continuous or frequent, which, moreover, is typical of a cross-border environment. In other words, the greater the continuity the children wish to give to these activities (music classes, sports, cultural activities, summer camps, youth associations, etc.) the greater the difficulty they face, potentially slowing down and discouraging these exchanges between minors and, in addition, making more difficult to stimulate interaction across the border and "good practices" of municipal cross-border cooperation. Although this is an issue that emerged in the context of the Euregio Tyrol – South Tyrol – Trentino and brought to the attention of B-solutions by the local EGTC, the issue has a potential impact on all the cross-border areas that share a land border with Italy (and wherever in Europe specific formalities for the authorisation are required).

III. Legal and administrative framework causing the obstacle of cross-border-mobility for youth below the age of 14

The European framework

First, it is worth to understand the provisions at EU level that appear relevant on the issue. When the Maastricht Treaty introduced the formal status of citizenship of the Union (then the European Community) in 1992, it was clear that EU institutions intended to place it at the core of its realisation of the free movement of persons within the EU. As the CJEU stated in the case of *Grzelczyk* in 2001¹, European citizenship aimed to be “the fundamental status of Member States’ citizens.” This idea built on the case law and legislation of the previous decades. Whilst “freedom of movement” was initially allowed on the basis of economic activity – securing the rights of workers and those wishing to provide or establish services in another EU member state – this

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:61999CJ0184&from=IT>

narrow definition was subsequently relaxed by the CJEU², and the implementation of regulations like 492/2011 (previously 1612/68) to include limited rights of movement for family members, for those seeking work, and for the non-economically active.

Furthermore, Articles 20 to 25 of the Treaty For the Functioning of the European Union (TFEU) lays down a seemingly extensive set of rights that derive from EU citizenship. This approach has been bolstered by the CJEU's judgments³, where it stated that these secondary or derivative rights directly facilitated the fundamental, primary right to free movement as one of the three key freedoms of the EU.

However, while the CJEU's interpretation of directives and rights conferred by EU treaties has been generous in the past, suggesting the freedom of movement and residence within the territory of Member States is a core right for EU citizens, it has considerably narrowed the scope and extent of its enjoyment in the last few decades, delineating limitations and conditions laid down in primary and secondary EU legislation. Its case law also shows that the extent to which EU citizens enjoy equal treatment is contingent on their economic activity, their level of integration in a host member state, and the kind of welfare or social security they want to access. Furthermore, although the derogations from free movement and the direct discrimination allowed under Article 45 TFEU is often interpreted strictly, they remain broad in application – the UK has successfully negotiated derogations preventing the free movement of citizens of new member states on grounds of public policy and security, for example.

The other relevant EU document in relation to the concept of freedom of movement is the EU Directive 2004/38/CE "The Citizens' Rights Directive" (also sometimes called the "Free Movement Directive") defining the right of free movement for citizens of the European Economic Area (EEA), which includes the member states of the European Union (EU) and the three European Free Trade Association (EFTA) members Iceland, Norway, and Liechtenstein. It consolidated older regulations and directives and extended the rights of unmarried couples. It gives EEA citizens the right of free movement and residence across the European Economic Area, if they are not an undue burden on the country of residence and have comprehensive health insurance. This right also extends to close family members that are not EEA citizens.

In Austria, the directive is transposed into national law mainly via the *Niederlassungs- und Aufenthaltsgesetz* (regarding residence) and the *Fremdenpolizeigesetz* (regarding entrance). The applications are handled locally at the *Magistrat* or *Bezirkshauptmannschaft* (except in Styria where the Landeshauptmann takes direct responsibility). In Italy the directive has been implemented into Italian legislation with Legislative Decree n. 30 February 6, 2007.

Whilst we understand that the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States are generally envisaged by the Directive we also understand that the Directive itself when it comes to "right of entry" (art. 4) and "right to exit" (art. 5) explicitly mention that these rights are somehow granted only "*without prejudice to the provisions on travel documents applicable to national border controls*" de facto highlighting the specific competence of the Member State in defining the rules on the requested travel documents.

² in cases like Lebon and Antonissen

³ in cases like Baumbast and Bidar

Given the considerations above, it can be highlighted that the principle of “freedom of movement” is strongly rooted to the economic capacity of the person, therefore the principle seems to have little room for any debate whether the limitation of mobility of minors under the age of 14 is in any kind of conflict with the EU principle. Different issue, and it will be further detailed in the next paragraph of this document, is the consideration of the rights of the children to access the best possibilities for their own development and whether any limitation to the free (cross-border) international mobility has any impact on that.

Additional EU provisions are focusing on the security characteristics in EU passports and are regulated through both non-binding resolutions and binding regulations:

- Resolution of the representatives of the governments of the Member States, meeting within the Council of 17 October 2000 supplementing the resolutions of 23 June 1981, 30 June 1982, 14 July 1986 and 10 July 1995 as regards the security characteristics of passports and other travel documents
- Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States
- Regulation (EC) No 444/2009 of the European Parliament and of the Council of 28 May 2009 amending Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States

As a general rule, at EU level, in addition to their own valid passport or ID card, all children travelling alone or with adults who are not their legal guardian or with only one parent may need an extra (official) document signed by their parents, second parent or legal guardian(s)/tutor(s) authorising them to travel. There are no EU rules on this matter, each EU country decides if it requires the child to have an official authorisation from their parent(s) or guardian(s)/tutor on how this authorisation should be issued.

Austria

The legal representative of the minor determines his/her place of residence, as a rule, therefore, the parents of a young person decide whether they are allowed to travel alone. In general, the parents (or anybody who's formally responsible for the minor) should provide written confirmation with their name, address and telephone number, with which they declare that they agree to the trip. This confirmation should be accompanied by a copy of the minor's birth certificate and a copy of the legal representative's passport. The permission of one parent is sufficient.

In Austria there is no nationwide youth protection law. This means that each federal state has its own youth protection laws. Burgenland, Salzburg, Styria are stating that from the age of 16 youngsters can stay overnight in hotels, youth hostels and on campsites or travelling abroad without an accompanying adult.

Carinthia, Lower Austria, Upper Austria, Vorarlberg and Vienna: there are no explicit regulations in these federal states. Travelling abroad without adult companions are permitted here if the parents or legal guardians agree by means of a plain letter.

In Tyrol the situation is ruled by Law on the Promotion and Protection of Young People in Tyrol (Tyrolean Youth Protection Act 1994) further amended by Law of 14 November 2018 but the focus is rather on the general need to ensure the presence of a supervisor

when the minors are staying in public spaces or not.

Given the above, it appears evident that the Austrian legal system offers a good degree of flexibility and does not represent a burden in this sense.

Italy

As a matter of fact, in Italy the issue of travel documents is mainly regulated by Law n. 1185 of 21 November 1967 “*Rules on passports*” (*Norme sui passaporti*). The Law has been broadly amended during the years. It is worth to mention however, the amendments following the entry into force of the EU Regulation 444/2009 that brought the revision of the art. 14 of the Law n. 1185. The art. 14 is very important for the aim of this study as it rules out the provisions for the travel documents of children below 14 years of age.

In order to set a proper degree of security for the Italian citizens underage, the rule envisages that passports for minors have two different types of validity, ensuring that the picture of the child is updated and to ease the identification of the minor at border controls.

- Children from 0 to 3 years old: three-year validity
- Minors aged 3 to 18: valid for five years

For minors under the age of fourteen, the use of the passport is subject to the condition that they travel in company of one of the parents or whoever takes their place (holding tutorship or parental responsibility⁴) and that this person is mentioned in the passport or on a statement issued by whom can give the consent or the authorization, mentioning the name of the person, entity or company of transport to which the minors themselves are entrusted. The signature of this declaration must be endorsed by an authority competent to issue the passport.

Whilst the Law highlights the need for an endorsement by an authority competent to issue the passport, how this is practically implemented is detailed in an agreement between specific Departments of the Ministry of Interior (formally responsible for the Police authority), the Ministry of Foreign Affairs and the Ministry of Justice. This agreement – Inter-ministerials Circular - is formally an administrative act and offers a comprehensive and detailed explanation of the rationale of the provisions of the Law as well as an explanation of the procedure that the above-mentioned authority shall carry out while issuing the endorsement to the parents’ declaration. In particular, the Ministry of Foreign Affairs, following a series of coordination meetings involving different Departments of the Ministry of Interior and the State Mint and Polygraphic Institute, prepared a detailed compendium concerning the methods of application of the paragraph 2 of art. 14, law 21 November 1967, n.1185 and in particular of the so-called “accompanying declaration” or the “mention of the accompanying person” in the passport, provided for minors under the age of 14 travel unaccompanied by at least one of those exercising parental responsibility or tutorship. As stated in the text “*these instructions are based on the opinion of the Ministry of Justice on the correct application of paragraph 2 of the aforementioned article, in order to guarantee the superior need for protection of minors.*”

⁴ Responsabilità parentale

The Circular is aimed at ensuring consistency of approach by all the offices responsible for issuing passports. To this end, the document envisages a number of annexed templates that should ensure homogeneity by the Italian and foreign issuers (i.e. Consular offices) of the mention in the passport, the declaration of accompanying and additional issued certification.

The Circular is structured into two main paragraphs. The first one offers the legal background and further explains the rationale of the chosen approach for the second paragraph where the procedure for issuing the “accompanying declaration” is detailed. The Circular explains that the Ministry of Justice – being competent especially in supporting the need for protection of minors – has remarked that the definition of the timeframe of the validity of the “accompanying declaration” appears to be the most respectful solution to the will of the legislator to protect minors effectively, when they travel outside national borders with a person other than their parents or tutors. Based on the above, the obligation to renew the “accompanying declaration” whenever the minor below-fourteen-year-old crosses the national borders (in the case of a citizen resident abroad, the borders of the country of residence) appears to follow the rationale of the Law in itself. In fact, the Circular highlights there can be many events and factors, even of sudden occurrence, that they may affect the agreements between the persons who accompany the children and their parents/ tutors. Although the document explains the rationale of the Ministry, the concrete consequent provisions – as we will see – these motivations are not always fully consistent and consequent with the following provisions.

When it comes to the procedure, the Circular mentions several relevant elements that shall be highlighted:

1. it is compulsory to indicate at least one accompanying person, but it leaves open for the applicants the possibility to indicate more than one (thus, broadening a bit the flexibility);
2. normally, the declaration is submitted to the competent office by the parents and then signed in presence. However, the Circular explicitly mentions that the declaration can also be submitted already signed, but in this case, it is necessary to attach a scan copy of a valid identity document (no need for additional formalities), duly signed by the holder. The scan copy of the document is inserted in the folder dossier. It is left to the assessment of the offices in charge pursuant to art. 5 of Law 1185/1967, the decision whether to request or not, in the interest of the minor, the presence of the parents or of those having parental responsibility (therefore the obligation of being physically present is also left to the decision of the offices in charge. This looks pretty important because potentially would mean avoiding parents to travel to the office in charge of issuing the authorization);
3. it is also recalled that, pursuant to Article 38, paragraphs 1 and 3 of Presidential Decree 28 December 2000, n. 445, the requests to the public administration can also be sent by fax or by mail (reinforcing the possibility to avoid physical presence);
4. in line with the provisions of art. 7 of Law 1185/1967, the competent

authority to receive the declaration is usually the one in charge of issuing the passport or the official representation in which the applicant resides (if abroad). In the event that the declaration is presented to an office other than the one of residence, the officer in charge must inform the one competent for the release of the certification or of the mention on the passport, subject to the acquisition of the necessary information on the identity of the parents or those having the parental responsibility and the minor, where deemed necessary;

5. the validity of the declaration is usually limited to a trip (to be understood as a round trip) outside the country of residence of the minor, with a specific destination. The maximum term of validity of the declaration - within which the date of departure and the date of return shall be included - is 6 months, without prejudice to the possibility for the competent office to grant a longer period in the event of a justified request (e.g. entrusting the minor to a care or training institution). However, the validity of the declaration cannot go beyond the expiry date of the minor's passport (therefore the single trip validity could also be somehow overcome by practice. It is worth to mention that even in the official webpage of the Ministry of Interior it is highlighted that each letter of consent is valid for six months, if the conditions stated in the application remain unchanged⁵.);
6. in case of trips that involve the crossing of different states, it is up to the parents or those bearing the parental responsibility to assess - based on the travel arrangements - whether to indicate only the country of final destination or all the individual countries visited.

The application procedure is now entirely managed electronically. Logging in on the website <https://www.passaportonline.poliziadistato.it/> there is a roll-down menu that allows the submission of the request for the declaration.

Although the provisions indicated are indeed burdensome, the Circular seems however to offer a number of possibilities to broaden the procedure, at least working on its extension in terms of time and reducing the need for the physical presence of the parents to the Police offices while submitting or receiving the authorisation. Additionally, it is necessary to report that during some informal interviews in another cross-border area in Italy, police officers reported that the authorisation is normally given for the six-months duration term. In this sense, it appears as well interesting that some Italian consulates abroad apply this possibility of issuing the authorisation for six months, without formal appointment and without the need for the physical presence of the parents.

IV. Possible solutions

1. the Circular confirms that the core issue of the obstacle refers to the

⁵ <https://sdg.interno.gov.it/it/a1-documenti-richiesti-ai-cittadini-dell'unione#:~:text=amministrazione%20dello%20Stato.-,Minori%20in%20viaggio,da%203%20a%2018%20anni.>

necessary reconciliation between, on the one hand, the general obligation that States must protect the best interests of minors and, on the other hand, the specific obligations to ensure that these minors can access training, education and all resources in the environment in which they live, for their full development. The Convention on the Rights of the Child of 20 November 1989 enshrines the obligation of the States to ensure the best interests of the minor. Likewise, it indicates that children are individuals with the right to full physical, mental and social development. Adding that, it is the obligation of the State to adopt the necessary measures to give effect to these rights (art. 4), adopting the national and bilateral measures that are necessary for it. In this respect, the Italian Civil Code does not contain a definition of minors, but the terms legal capacity and capacity to act are defined in art. 1 and art. 2 of the Civil Code. The first term, legal capacity, is acquired at the moment of birth, while the second, capacity to act, is acquired once the age of majority (18 years of age) is reached, along with the ability to take all actions for which no other age limit is prescribed. Although an express definition of minors does not exist, by ratifying the United Nations Convention on the Rights of the Child of 1989 through Act No. 176/1999, Italy automatically accepted the definition of child (*fanciullo*) as a synonym for minor, as contained in Article 1 of the Convention. It should also be pointed out that Article 1 of Act No. 977/67, "Occupational Safety for Children and Adolescents," as amended by Ordinance No. 345/99, makes a distinction between child (*bambino*) and adolescent (*adolescente*), clarifying that, for the purposes of the Act, a child is to be understood as a minor who is less than 15 years of age or who is still subject to compulsory education, while an adolescent is understood as a minor between 15 and 18 years of age who is no longer subject to compulsory education. Given the above, **the needs to protect the interests of the child and establishing a protective environment that defends children from exploitation, abuse and violence shall be adapted and weighted to the obligation of the States to favour the development of the child's rights to adequate physical training and education.** In relation to this, it is worth remembering that the Treaty of the European Union establishes that the EU is obliged to promote the protection of children's rights (art.3). The Charter of Fundamental Rights of the European Union (art.24), the EU Regulations and Directives, as well as the jurisprudence of the Court of Justice of the EU (CJEU), have contributed to define more precisely the protection of children's rights. For its part, the European Convention on Human Rights contains specific references to the rights of the child on which the ECHR has developed a vast jurisprudence while article 17 of the European Social Charter obliges States to adopt all appropriate and necessary measures to guarantee that children receive (...) the education and training they need. Based on these legislative details, it could be understood that the Italian authorities – and in particular the Ministry of Justice that provided the basis for drafting the Circular – could potentially reconsider their opinion as a way to reconcile safeguarding the best interests of the minors - in the sense of protecting their safety and integrity - with other legitimate interests they might have that would allow a full development in the cross-border environment in which they live. In other words, the legal and administrative restrictions -

which have been designed with a general and abstract scope - that are imposed on minors, hindering their crossing of the border in a cross-border space and that limit their full access and enjoyment of educational possibilities, cultural and sports facilities existing in public infrastructures on both sides of the border, should be interpreted in such a way as to cause the least possible harm to minors. The most straight forward solution could be about introducing exceptional administrative measures for exceptional situations, so that minors can cross the border within a defined legal and administrative framework, always bearing in mind their safeguard and safety. This could be done by reviewing the considerations that are at the basis of the Circular, carrying out a balanced and realistic examination of the circumstances that rule life in the border regions and the opportunities that real freedom of movements open for the minors. The defence of the interests of minors resident in a cross-border area could be a valid argument for this examination and should push the search for solutions that would lead to more flexibility in the requirements and characteristics of the authorizations envisaged in the administrative provisions.

2. The provisions indicating the requirements that must be met by the authorizations that these minors must have in order to cross the border unaccompanied or accompanied by a person who is not a parent or legal guardian **are not legislative norms but administrative provisions** (included in the Circular document) having an abstract and general nature, so that they refer to the crossing of any unaccompanied minor across any border of the country in question. That is, they do not consider where the minor resides or what border they cross. Being therefore administrative provisions, it would be possible to modulate or relax their general and abstract scope so that the exceptional situation that occurs when the minor in question resides in a cross-border environment. In other words, it would not be necessary to change the legislation, a long-term and always complex situation, although recommended, but rather to adapt the administrative regulations to this unique situation, simplifying and lowering the cost, where appropriate, of the currently established procedures. The simplification and flexibility of these administrative formalities, facilitating the movement of minors in a cross-border environment, would be in line with what is proposed by EU law. Since, different and varied are the provisions in which the EU and its Member States are urged to reduce the complexity, duration and costs of cross-border interaction and to promote the sharing of services along internal borders and so that citizens of border regions can fully benefit from the opportunities that are presented on both sides of the border. Given the above, it would be possible to propose an adaptation of the administrative formalities that, with a general and abstract character, are established for the exercise of the rights of entry, exit and permanence by unaccompanied Italian minor citizens, to the new reality arising from relations that occur in a cross-border environment. Ultimately, it would be a question of relaxing or eliminating administrative requirements that, without a doubt, should be maintained in general for the crossing of unaccompanied minors across the borders to safeguard the interests of minors, but that in the singular case examined violate other

rights, also fundamental, of minors, such as the right to education and training.

3. in this sense, the reconciliation of the rights of minors with the obligations of the States to facilitate that citizens that live in the border regions can enjoy the opportunities that are presented on both sides of the border and, among others, those related to education, culture, sports and leisure, would definitely require to look for a solution that would ease the administrative obstacles that now prevent minors from enjoying their right to training and education. To make this possible, it would be appropriate to enlarge this interest involving also the representatives of the other Italian border regions that present similar issues (i.e. Italy – Slovenia, Italy – France, etc.) in order to propose a common approach to the issue. As said above, it appears that there is a different approach to the interpretation of the Circular as well as a different degree of awareness on the perception of the obstacle. Any proposal for a reduction of the administrative requirements for residents of the cross-border area might have stronger chances to be adopted if the request is submitted by a larger number of stakeholders (i.e. all the EGTCs dealing with CBC issues, all the Regions and Autonomous Provinces sharing a land border with another country, etc.).
4. the art. 3 of the Law 21 November 1967 n. 1185, rules the requirements needed for issuing the passport for minors. It highlights that it is generally needed the agreement of both parents. A sentence of the Administrative Court in Italy⁶ has declared that the consent to expatriate expressed by the parent at the time of issuing the document is not irrevocable and does not necessarily have to remain unchanged over time as there may actually be changes in the situation such as to justify its revocation; in this case the revocation of the passport issued to the minor ordered by the Ministry of interior is entirely legitimate. One of the parents should communicate his dissent to the intention expressed by the other willing to take the minor child abroad. We believe the same approach could be adopted for the “accompanying authorisation”, ensuring its long-term validity as long as the original conditions for issuing it have not been changed and at the same time being absolutely revocable on the basis of the request of one of the parents.

V. Other relevant cases

The issue is approached differently in other EU and non EU countries and it could be worth to have a look at some of them in order to understand some innovative solutions could be used as well in the Italian context. As a general consideration, “common law” countries tend to be more flexible and rely on the self-responsibility of the parents. In the **United Kingdom**, for example, a letter from the person with parental responsibility for the child is usually enough to show the person travelling with children got permission to take them abroad. The person might be asked for the letter at a UK or foreign border, or if there’s a dispute about taking a child abroad. The letter should

⁶ TAR Liguria 8.6.2007 n. 1067

include the other person's contact details and details about the trip.

A child usually residing in **France** must have an identity or travel document, an authorisation to leave the country (AST) and a photocopy of the identity document of one of his parents. The rules depend on the nationality of the parent who signed the AST. If the parent signing the AST has the citizenship of an EU Member State, the child who travels abroad without being accompanied by the parent shall have a valid ID and a scan copy of the valid identity document of the signatory parent (identity card, passport or residence permit) and an additional document (*cerfa form no. 15646*) signed by one of the parents holding parental authority. The authorisation does not require other formalities and it lasts one year.

In **Slovenia** there are no specific requirements for minors travelling alone, given that for children and teenagers up to 18 years old the validity of the passport is limited to 5 years. However, it is worth to mention the bilateral agreement the Republic of Slovenia and the Republic of Croatia signed. The legislation was amended in the Republic of Slovenia and the Republic of Croatia, which originally stipulated that a child under the age of 15 who travels to or from abroad without being accompanied by a legal representative needed the permission of the legal representative (in the Republic of Croatia, the certified consent of the legal representative). Now, a child traveling to the Republic of Croatia unaccompanied by a legal representative does not need any Slovenian or Croatian special permit and viceversa. Nevertheless, the Ministry of Foreign Affairs of the Republic of Slovenia recommends that a list of group members is still prepared for organized group trips (excursions, vacations, sports, cultural and other events for minors). This enables easier and faster border control.

VI. Summarising the possible solutions

Possible solution (What)	Methodology (How)	Justification (Why)
Amendment of the Law n. 1185 of 21 November 1967	Revision of art. 14 of the Law skipping par. 3 thus avoiding any official formality when drafting the "accompanying authorization"	Although the Law has been amended and updated several times, it is evident that it does not reflect fully the current context characterized by the wider European Union membership and to the Schengen agreement, that has basically cancelled border controls as well as the increase of exchanges between people living at the border. The revision of the Law therefore would be the best option to ensure the juridical framework is fully adapted to real life and habits as well as supporting the recognition of the specificities of the cross-border regions.

		The aim of the revision should be to keep the authorization request but to have it without the need for the endorsement of the Authority (i.e. plain declaration of the parents or tutors).
Amendment of the Circular 559/D/PE/3.2./21672/2014 dated 20/05/2014	Revision of the text of the document <u>or</u> additional document further providing specific provisions	Given that the problems arise, not from the need for an authorization in itself – whose requirement seems substantial to the concern to protect the best interests of the minor - but from its content and the limitations envisaged in its use. In general, it would be possible to think of an authorization model that would have: • a longer duration in time, • that could be used multiple times, • whose request could be accompanied not only by the authorization of the person exercising parental authority (in the case of non-regulated activities), but also of a registration or declaration of the educational, cultural or sports centre in which the minor would carry out his activity. In this sense, the authorization could even be limited to the school period or to the activity in question (in the case of regulated activities). This is the case for several countries that apply fast-track approach and allows reduced burdens for schools and youth organisations.

VII. List of regulations and useful web-sites

DIRECTIVE 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC. OJ L 158, 30.4.2004, p. 77–123.

<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004L0038&from=EN#d1e540-77-1>

Decreto del Presidente della Repubblica nr. 445 del 28 dicembre 2000 Testo unico delle disposizioni legislative e regolamentari in materia di documentazione amministrativa. Gazzetta Ufficiale n. 42 del 20 febbraio 2001- Supplemento ordinario n. 30.

(Decree of the President of the Republic of Italy n. 445 of 28 December 2000 Consolidated text of legislative and regulatory provisions on administrative documentation. IOJ n. 42, 20.02.2001)

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(Law 21 November 1967, n. 1185 Rules on passports. IOJ n. 314, 18.12.1967)

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DECRETO LEGISLATIVO 6 febbraio 2007, n. 30 Attuazione della direttiva 2004/38/CE relativa al diritto dei cittadini dell'Unione e dei loro familiari di circolare e di soggiornare liberamente nel territorio degli Stati membri. (Gazzetta Ufficiale n.72 del 27 marzo 2007).

(LEGISLATIVE DECREE 6 February 2007, n. 30 Implementation of Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. IOJ n. 72, 27.03.2007)

http://www.trevisolavora.it/quidastranieri/documenti/dlgs_6febbraio2007_n30_apr2017.pdf?id_contenuto=655

Circolare interministeriale 559/D/PE/3.2./21672/2014: Dichiarazione di accompagnamento – istruzioni per il rilascio

(Interministerial circular 559/D/PE/3.2./21672/2014: Accompanying declaration - instructions for issuing)

<https://questure.poliziadistato.it/statics/01/dichiarazione-accompagnamento.pdf?lang=it>

More information on documents for minors travelling in the EU

https://europa.eu/youreurope/citizens/travel/entry-exit/travel-documents-minors/index_en.htm

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