

## ITALY

### The application

#### 1. The number of applications

According to the Central Authority for Italy, they received 41 incoming return and 4 incoming access applications in 1999, making a total of 45 new incoming applications. Additionally, they made 48 outgoing return and 21 outgoing access applications in that year. Altogether, therefore, the Central Authority for Italy handled 114 new applications in 1999.

#### 2. The Contracting States which made the applications

##### (a) Incoming return applications

###### Requesting State

	Number of Applications	Percent
Germany	12	29
Spain	4	10
Poland	4	10
Switzerland	3	7
UK - England and Wales	3	7
Czech Republic	2	5
France	2	5
USA	2	5
Hungary	2	5
Argentina	1	2
Australia	1	2
Belgium	1	2
Canada	1	2
Finland	1	2
Netherlands	1	2
Ecuador	1	2
<b>Total</b>	<b>41</b>	<b>100</b>

Italy received applications for return from 16 Contracting States, almost one third of which were made by Germany. Unlike many States, Italy received relatively few applications from the USA.

##### (b) Incoming access applications

Italy received 1 access application from each of four Contracting States, Austria, Canada, the Czech Republic and the USA. It is interesting that although Germany made the most applications for return, it did not make any access applications to Italy.

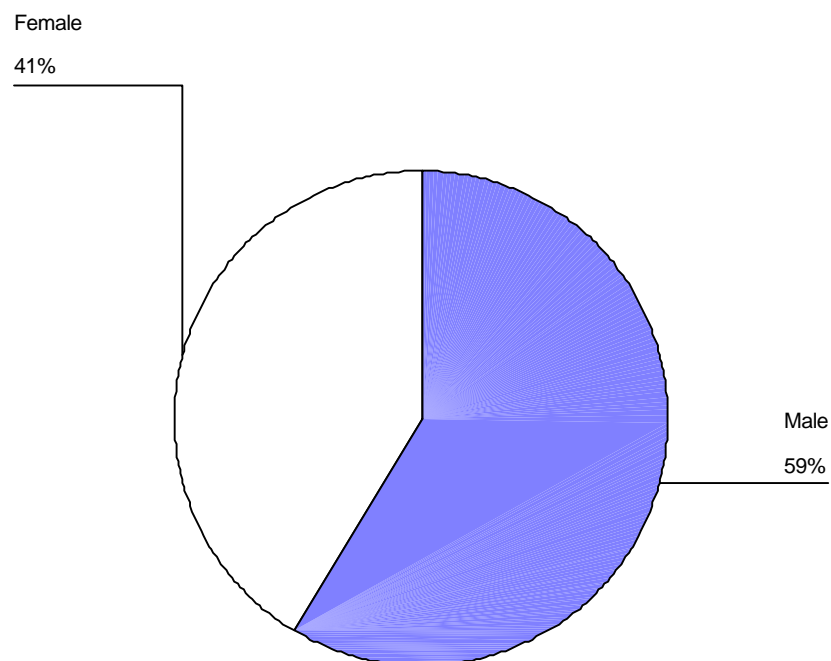
## The taking person / respondent

### 3. The gender of the taking person / respondent

#### (a) *Incoming return applications*

Gender of the Taking Person

	Number	Percent
Male	24	59
Female	17	41
<b>Total</b>	<b>41</b>	<b>100</b>



As the above table and chart show, the gender of the taking person was notably different to the global norm where 69% of applications involved female taking persons. In applications to Italy male taking persons were in the majority, with only 41% of applications involving female taking persons.

#### (b) *Incoming access applications*

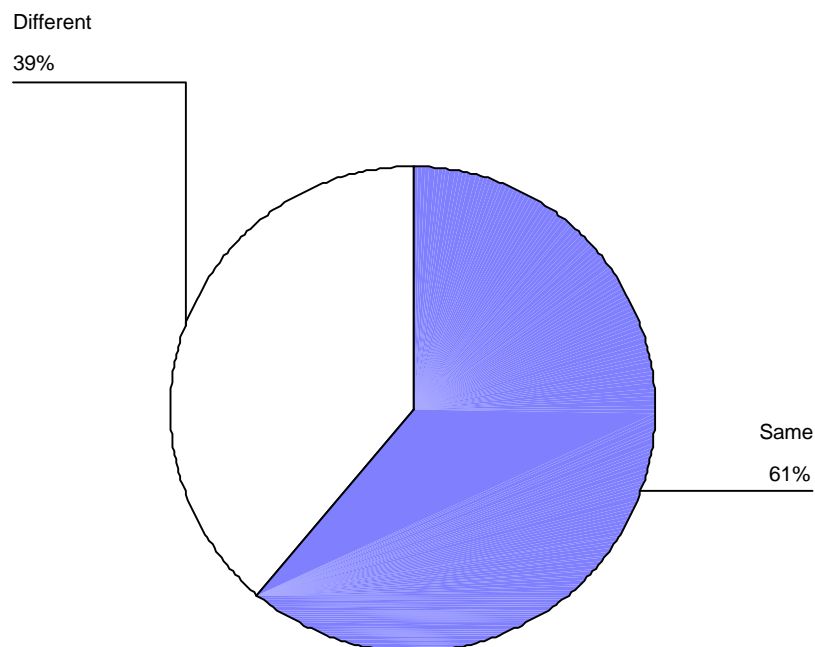
The gender of the respondent was split equally in the access applications; there were 2 male and 2 female respondents.

#### 4. The nationality of the taking person / respondent

##### *(a) Incoming return applications*

**Taking Person Same Nationality as Requested State**

	Number	Percent
Same Nationality	25	61
Different Nationality	16	39
<b>Total</b>	<b>41</b>	<b>100</b>



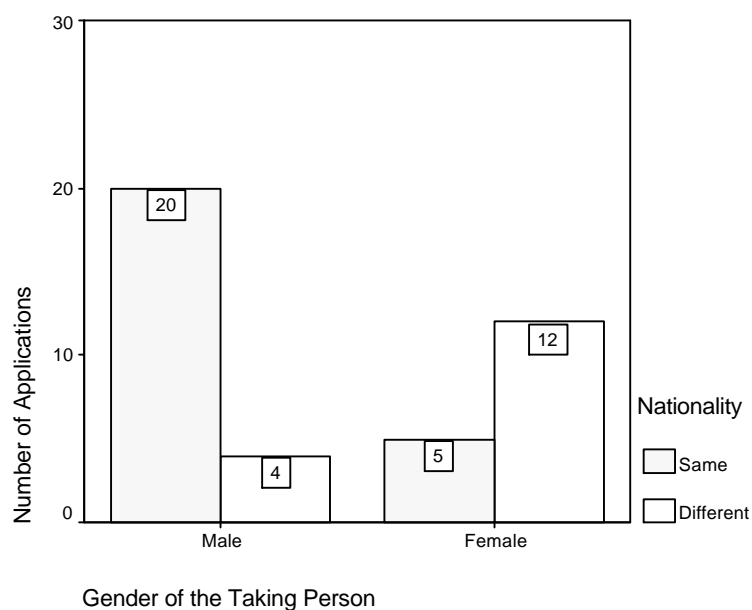
Globally, 52% of taking persons had the nationality of the requested State while in applications to Italy the proportion was higher at 61%.

##### *(b) Incoming access applications*

In the access applications all 4 respondents were of a different nationality to the requested State.

## 5. The gender and nationality of the taking person / respondent combined

### (a) Incoming return applications



There was a remarkable difference between the proportion of male taking persons who were Italian nationals (83%), i.e. who had the nationality of the requested State, and female taking persons who were Italian nationals (29%). Both genders diverge greatly from the global averages of 53% for males and 52% for females.

## The children

### 6. The total number of children

There were 57 children involved in the 41 return applications and 5 children involved in the 4 access applications. Altogether, therefore 62 children were involved in new incoming applications received by Italy in 1999.

### 7. Single children and sibling groups

#### (a) Incoming return applications

Single Child or Sibling Group

	Number	Percent
Single Child	27	66
Sibling Group	14	34
<b>Total</b>	<b>41</b>	<b>100</b>

**Number of Children**

	Number	Percent
1 Child	27	66
2 Children	12	29
3 Children	2	5
<b>Total</b>	<b>41</b>	<b>100</b>

The proportion of single children and sibling groups involved in return applications reflected the general global pattern, with 66% of applications involving single children, compared with a global norm of 63%.

***(b) Incoming access applications***

3 single children and one sibling group of 2 children were the subject of the access applications.

**8. The age of the children**

***(a) Incoming return applications***

**Age of the Children**

	Number	Percent
0-4 years	23	40
5-9 years	24	42
10-16 years	10	18
<b>Total</b>	<b>57</b>	<b>100</b>

In the return applications made to Italy, the age of the children did not diverge significantly from the global norms.

***(b) Incoming access applications***

One child was aged between 0 and 4 years, 3 were aged between 5 and 9 years and one was aged between 10 and 16 years.

**9. The gender of the children**

***(a) Incoming return applications***

**Gender of the Children**

	Number	Percent
Male	26	46
Female	31	54
<b>Total</b>	<b>57</b>	<b>100</b>

In the applications for return there were proportionally more female than male children. This was the reverse of the global norm of 53% male and 47% female children.

***(b) Incoming access applications***

There were 2 male and 3 female children.

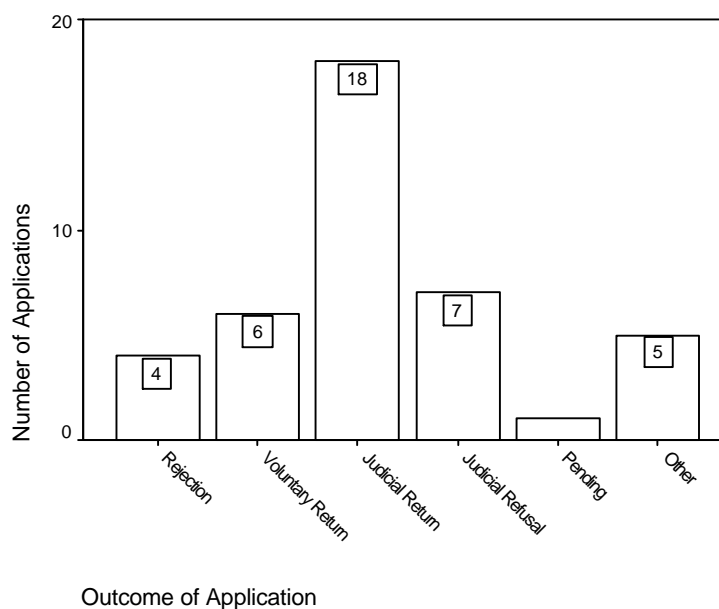
**The outcomes**

**10. Overall outcomes**

***(a) Incoming return applications***

**Outcome of Application**

	Number	Percent
Rejection	4	10
Voluntary Return	6	15
Judicial Return	18	44
Judicial Refusal	7	17
Withdrawn	0	0
Pending	1	2
Other	5	12
<b>Total</b>	<b>41</b>	<b>100</b>



59% of applications to Italy resulted in either the voluntary or judicial return of the children which was higher than the global norm of 50%.<sup>1</sup> There was a significantly greater proportion of judicial returns compared with the global norm.

<sup>1</sup> In fact the overall proportion of returns was even greater because in 2 further applications in which the outcome was described as 'other' the children were in fact returned, see below.

In Italy 44% of applications resulted in judicial returns and 15% resulted in voluntary returns as compared with the global norms of 32% and 18% respectively. On the other hand, proportionally more applications were judicially refused, 17% compared with 11% globally. Of all applications which went to court, 72% ended in a judicial return compared with 74% globally. Strikingly no cases were withdrawn, whereas globally, 14% of cases ended in withdrawal. 5 applications were classified as having 'other' outcomes<sup>2</sup> and one application was still pending. This application was still pending at 30<sup>th</sup> June 2001.

***(b) Incoming access applications***

Each access application had a different outcome. In one application access was granted pending the court hearing; in two access was judicially granted; the fourth application was judicially refused. None of the applications resulted in a voluntary agreement that the applicant was to have access.

**11. The reasons for rejection**

***(a) Incoming return applications***

**Reason for Rejection by the Central Authority**

	Number	Percent
Child Located in Another Country	2	50
Child Not Located	1	25
Applicant Had No Rights of Custody	1	25
<b>Total</b>	<b>4</b>	<b>100</b>

The reasons for rejection were diverse

---

<sup>2</sup> One of the 'other' outcomes concerned 3 children, one child was returned voluntarily, the other 2 were judicially returned. In a second application, the child was returned but the circumstances were not stated. The outcomes of the other 3 applications were not available.

## 12. The reasons for judicial refusal

### (a) Incoming return applications

Reason for Judicial Refusal

	Number	Percent
Child Not Habitually Resident in Requesting State	1	14
Applicant had No Rights of Custody Article 12	0	0
Article 13 a Not Exercising Rights of Custody	0	0
Article 13 a Consent	2	29
Article 13 a Acquiescence	0	0
Article 13 b	2	29
Child's Objections	2	29
Article 20	0	0
More Than One Reason	0	0
Other	0	0
<b>Total</b>	<b>7</b>	<b>100</b>

Although there were proportionally more judicial refusals than the global average, the reasons for the judicial refusals were diverse. Interestingly, 2 out of the 4 globally known cases where a refusal was based solely on Article 13 a consent, were from Italy. The children whose objections were considered were aged between 8 and 12 years old.

## 13. The reasons for judicial refusal and the gender of the taking person

### (a) Incoming return applications

Count	Gender of the Taking Person		Total
	Male	Female	
Child Not Habitually Resident in Requesting State	1		1
Article 13 a Consent	1	1	2
Article 13 b	1	1	2
Child's Objections	1	1	2
<b>Total</b>	<b>4</b>	<b>3</b>	<b>7</b>

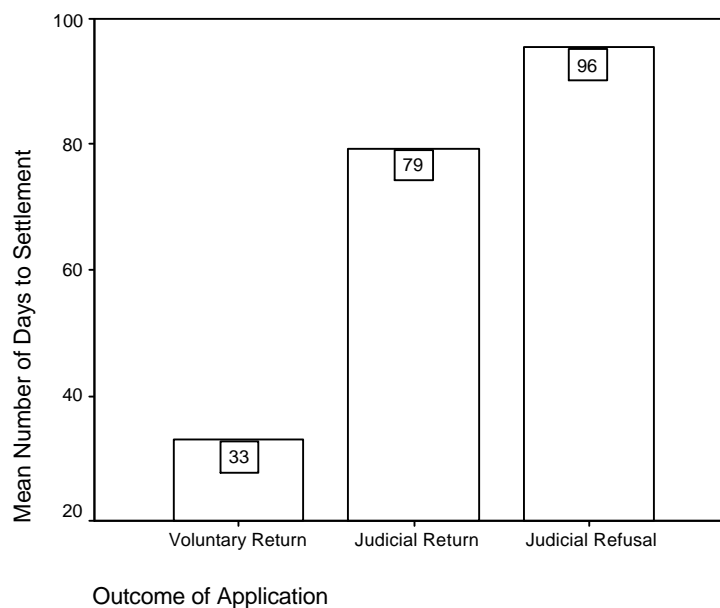


As the table above shows, the gender of the taking person appears to be insignificant when considering judicial refusals. In 57% of refusals the taking person was male, which is proportionate to the overall gender of taking persons, 59% of whom were male. Furthermore there is no evidence of gender difference in the application of any particular ground.

## Speed

### 14. The time between applications and outcome

#### (a) Incoming return applications



For all three outcomes Italy was faster than the global averages of 84 days for a voluntary return, 107 days for a judicial return and 147 days for a judicial refusal. In part this speedy disposition is accounted by the fact that no case was appealed. Most prominent is that at 33 days for a voluntary return, Italy was over twice as fast as the global norm. Italy is one of the fastest jurisdictions considered in this analysis.

	Outcome of Application		
	Voluntary Return	Judicial Return	Judicial Refusal
Mean	33	79	96
Median	29	70	105
Minimum	0	34	36
Maximum	78	218	145
<b>Number of Cases</b>	<b>6</b>	<b>18</b>	<b>6</b>

The above table shows the number of cases for which we had information regarding time, the mean and median average number of days to final outcome and the minimum and maximum number of days. This gives a more informative picture of the system in Italy.

***(b) Incoming access applications***

Although there were few cases it can nevertheless be seen that Italy was faster than the global norm in the resolution of an access application. Globally, only 29% of judicial decisions were reached in less than 6 months whereas 3 of the 4 applications made to Italy were resolved in less than 6 months, and 2 of these were determined in less than 3 months. As with return applications, Italy is one of the fastest jurisdictions considered in this analysis, although with regard to access applications the numbers are small and must therefore be considered with caution.

**15. Appeals*****(a) Incoming return applications***

None of the judicial decisions were appealed.