



Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/15/Add.198
18 March 2003

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-second session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations: Italy

1. The Committee considered the second periodic report of Italy (CRC/C/70/Add.13), submitted on 21 March 2000, at its 840th and 841st meetings (see CRC/C/SR. 840 and 841), held on 16 January 2003, and at its 862nd meeting (see CRC/C/SR.862), held on 31 January 2003, adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the second periodic report with its annexes which follow the reporting guidelines of the Committee. The Committee welcomes the self-critical character of the report and the participatory process leading to its preparation. It also notes the timely submission of the written replies to its list of issues (CRC/C/Q/ITA/2), which permitted a clearer understanding of the situation of children in the State party. The Committee also notes the positive dialogue it had with the delegation of the State party and acknowledges that the presence of a high-level and large delegation directly involved in the implementation of the Convention permitted a better understanding of the rights of the child in the State party.

B. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes:

(a) The ratification of the two Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict, and on the sale of children, child prostitution and child pornography;

(b) The establishment of a special Parliamentary Commission on Children and of a National Observatory on Children and Adolescents (Law 451/97);

(c) The establishment of the National Documentation and Analysis Centre for Children and Adolescents, which has gathered an impressive amount of data and research on children made available on its web site;

(d) The adoption of law 285/97 containing provisions on the promotion of rights and opportunities for children and adolescents which set up a National Fund for Children and Adolescents;

(e) The Adoption of Law 269/98 against the exploitation of prostitution, pornography, and sexual tourism to the detriment of children;

(f) The campaign against female genital mutilation;

(g) The widespread inclusion of children with disabilities into the mainstream schools;

(h) The ratification of the ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour;

(i) The ratification of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

C. Principal subjects of concern and recommendations

Previous concluding observations

4. The Committee regrets that some of the concerns it expressed and the recommendations it made (CRC/C/15/Add.41) after its consideration of the State party's initial report (CRC/C/8/Add.18) have been insufficiently addressed, particularly those contained in paragraphs 13 and 15 to 22, regarding coordination in the implementation of the Convention, non-discrimination and ill-treatment of children. Those concerns and recommendations are reiterated in the present document.

5. **The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented and the list of concerns contained in the present concluding observations.**

1. General measures of implementation

Legislation

6. The Committee notes that a number of substantive pieces of legislation have been adopted and that reference to the Convention is made in some of them. In addition, the Committee welcomes the information provided by the State party on draft laws under consideration, including with respect to juvenile justice and education.

7. The Committee recommends that the State party continue to rigorously review the legislation and ensure that national and regional laws are rights-based and conform with international human rights standards, including the Convention, and effectively implemented.

Resources

8. The Committee welcomes the adoption of the Guidelines of the Italian Co-operation on Children and Adolescent Issues offering a vision of the development of the younger generations as an area of investment. Nevertheless, the Committee remains concerned that the Convention is not implemented to the “maximum extent of ... available resources”, as stipulated by article 4 of the Convention.

9. The Committee recommends that the State party continue to increase, as far as possible, resources allocated to children and their family and undertake an analysis of all sectoral and total budgets across the State party and in the regions in order to analyse the proportion spent on children, identify priorities and allocate resources to the “maximum extent of ... available resources”. The Committee also recommends that the State party apply this principle in the activities carried out by the Foreign Ministry’s international development aid and cooperation.

Coordination

10. The Committee welcomes the establishment of the National Observatory on Children and Adolescents (Law 451/97) which coordinates the policies and programmes with regard to children at the national, regional and local levels. In addition, the Committee notes with appreciation that this National Observatory is in charge of drafting a National Plan of Action for Children every two years to set priorities and coordinate all actions regarding children. The Committee further notes the regular meetings of the State-Regions Conference (Conferenza Stato-Regioni) aimed at coordinating activities between the State and the regions and at monitoring the implementation of policies at the regional and national levels. The Committee is concerned that this coordination is not sufficient and that some specific issues are coordinated outside this National Observatory. The Committee is also concerned at the lack of structured coordination with non-governmental organizations (NGOs).

11. The Committee recommends that the State party:

(a) Strengthen effective coordination, in particular by the National Observatory and the State-Regions Conference, within and between government agencies at the national, regional and local levels in the implementation of policies for the promotion and protection of the child, as it previously recommended (CRC/C/15/Add.41, para. 13);

(b) Ensure closer and more active cooperation with NGOs working for the rights of the child, especially at the local level;

(c) Encourage the participation of children in the activities of the National Observatory.

National Plan of Action

12. The Committee notes that the new Plan of Action for children is going to be discussed by the parliament and that the State party considers the possibility of formulating another plan for the implementation of the World Fit for Children outcome document of the United Nations General Assembly special session on children (UNGASS). The Committee is concerned at the possible discrepancies between the two aforementioned plans.

13. The Committee recommends that the State party:

(a) Expedite the consideration of the National Plan of Action for its adoption;

(b) Ensure the harmonization between the National Plan of Action and the plan for the implementation of the UNGASS outcome document;

(c) Effectively monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

Independent monitoring structures

14. The Committee notes the establishment of Offices of Public Defender of Childhood in four regions and the efforts to establish a national public defender for children (including in particular the bills pending in parliament), but remains concerned that there is no central independent mechanism to monitor the implementation of the Convention which is empowered to receive and address individual complaints of children at the regional and national levels.

15. The Committee recommends that the State party complete its efforts to establish a national independent ombudsman for children, if possible, as part of a national independent human rights institution (see the Committee's General Comment No. 2 on the role of independent human rights institutions), and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human

rights (The “Paris Principles”) (General Assembly resolution 48/134, annex), to monitor and evaluate progress in the implementation of the Convention. It should be accessible to children, empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner, and equipped with the means to address them effectively. The Committee further recommends that appropriate linkages between the national and regional institutions be developed.

Data Collection

16. The Committee notes with appreciation the efforts undertaken to improve data collection, notably through the establishment of the National Documentation and Analysis Centre for Children and Adolescents. However, the Committee remains concerned at the insufficient data in some areas covered by the Convention. The Committee is also concerned that data collection is still obtained on the basis of a family-centred approach rather than an approach in which the child is considered as an autonomous human being. The Committee is further concerned at the lack of coherence between the various bodies in charge of data collection, and in the various regions.

17. **In line with its previous recommendations, (ibid., para. 14), the Committee reiterates its recommendations that the State party:**

(a) Strengthen its mechanism for collecting and analysing systematically disaggregated data on all persons under 18 for all areas covered by the Convention, with special emphasis on the most vulnerable groups, including children with disabilities, Roma children, children belonging to migrant families, unaccompanied children, child victims of violence and children from economically and socially disadvantaged households;

(b) Use these indicators and data effectively in formulating and evaluating policies and programmes for the implementation and monitoring of the Convention;

(c) Ensure the coherence of the data collection process by the various institutions, both at the national and regional levels.

Training/dissemination of the Convention

18. The Committee notes with appreciation the efforts to disseminate the Convention, notably through the National Documentation and Analysis Centre for Children and Adolescents, and in particular the inclusion of the rights of the child into civic education. However, the Committee remains concerned that the activities relating to dissemination, awareness-raising and training of professionals are not always undertaken in a systematic and targeted manner.

19. **The Committee recommends that the State party:**

(a) Strengthen and continue its programme for the dissemination of information on the Convention and its implementation among children and parents, civil society and all sectors and levels of government, including initiatives to reach vulnerable groups;

(b) Develop systematic and ongoing training programmes on human rights, including children's rights, for all professional groups working for and with children (e.g. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers and health personnel).

2. General principles

Non-discrimination

20. The Committee notes the establishment of several observatories on discrimination in the State party as well as the provisions on discrimination contained in Law 40/98 (Regulations of Immigration and Rules on the Conditions of the Foreigner). Nonetheless, the Committee is concerned at racist incidents against minorities the use of hate speech in public presentations, and the disparities in the enjoyment of economic and social rights, particularly in the fields of health, social welfare, education and housing, experienced by poor children, Roma children, non-Italian children, including unaccompanied minors, and disabled children.

21. **In accordance with article 2 and other related articles of the Convention and in line with its previous recommendations (ibid., paras. 17 and 18), the Committee recommends that the State party:**

(a) Take all appropriate measures, such as comprehensive public education campaigns, to prevent and combat negative societal attitudes, and implement the recommendations of the Committee on the Elimination of Racial Discrimination (A/56/18, paras. 298 and 320);

(b) Strengthen its efforts to incriminate and take appropriate penal sanctions against any act of racism, racial discrimination, xenophobia and related intolerance;

(c) Carefully and regularly evaluate existing disparities in the enjoyment by children of their rights and undertake, on the basis of this evaluation, the necessary steps to prevent and eliminate discrimination through proactive measures;

(d) Ensure that the devolution process will enhance the elimination of disparities between children, based on the wealth of the region to which they belong;

(e) Continue to prioritize and target resources and social services to children belonging to the most vulnerable groups;

(f) Study promptly the situation of foreign children in detention, ensure their full rights without discrimination, especially to education, and ensure their right to integration into society.

22. The Committee requests that specific information be included in the next periodic report on measures and programmes relevant to the Convention undertaken by the State party as a follow-up to the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in 2001, taking into account the Committee's General Comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

Best interests of the child

23. The Committee welcomes that the Constitutional Court has made a constitutional principle of the best interests of the child, but remains concerned that the general principle of the best interests of the child (art. 3) is not fully applied and duly integrated in the implementation of the policies and programmes of the State party.

24. The Committee recommends that the State party take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated into all legislation and budgets, as well as judicial and administrative decisions and into projects, programmes and services which have an impact on children.

Respect for the views of the child

25. The Committee is concerned that the general principle, as laid down in article 12 of the Convention, is not fully applied in practice. In this regard, the Committee is concerned that the right of children to be heard is insufficiently guaranteed in proceedings affecting them, in particular in cases of the separation of parents, divorce, adoption or foster care, or within education.

26. **The Committee recommends that:**

(a) Legislation governing procedure in courts and administrative proceedings ensure that a child capable of forming his or her own views has the right to express those views and that they be given due weight;

(b) Particular emphasis be placed on the right of every child to participate in the family, at school, within other institutions and bodies and in society at large, with special attention to vulnerable groups;

(c) Awareness-raising among the public at large, as well as education and training of professionals on the implementation of this principle, be reinforced.

3. Civil and political rights

The right to an identity

27. The Committee is concerned that adopted children cannot know the identity of their natural parents even after having reached majority and when proved to be in their best interests. The Committee is further concerned that children born out of wedlock legally do not have a mother nor a father unless they are recognized by their mothers and/or fathers.

28. **In the light of article 7 of the Convention, the Committee recommends that the State party:**

(a) **Ensure, as far as possible, respect for the child's right to know his or her parents' identity should it be an adopted child or a child born out of wedlock who has not been recognized by either of his or her parents;**

(b) **Urgently review and amend legislation in order to ensure that children born out of wedlock legally have from birth a mother (in accordance with the European Court on Human Rights' decision *Marckx v. Belgium* and the rule *mater semper certa est*) and encourage recognition of these children by their fathers (as a way to prevent "easy" abandonment of children);**

(c) **Ratify the European Convention on the Legal Status of Children Born out of Wedlock.**

Freedom of thought

29. The Committee is concerned that, as mentioned in the State party's report (para. 147), children, especially in elementary schools, may suffer from marginalization if they abstain from religious instruction, which is mainly covering Catholic religion. In addition, the Committee is concerned that parents, notably those of foreign origin, are not always aware that religious instruction is not compulsory.

30. **In the light of articles 2, 14 and 29 of the Convention, the Committee recommends that the State party make sure that parents, in particular of foreign origin, when they are filling out the relevant forms, are aware that Catholic religious instruction is not compulsory.**

Torture and ill-treatment

31. The Committee is deeply concerned about allegations of instances of ill-treatment by law enforcement officers against children and at the prevalence of abuse, in particular against foreign and Roma children.

32. **In line with its previous recommendations (ibid., para. 20), the Committee recommends that the State party:**

(a) **Incorporate the crime of torture or other cruel, inhuman or degrading treatment or punishment into criminal law;**

(b) **Set up child-sensitive mechanisms for receiving complaints against law enforcement officials regarding ill-treatment during arrest, questioning and police custody and within detention centres;**

(c) **Systematically train the police and carabinieri forces, as well as professionals at detention centres, on the human rights of children.**

4. Family environment and alternative care

Children deprived of family environment

33. The Committee notes with concern that Law 184/83 (as amended by Law 149/2001) regarding adoption and foster care has not been widely implemented throughout the State party and that there are still more children placed in institutions than in foster care. The Committee expresses also its concern at the high number of children who are placed in institutions for social protection purposes and sometimes together with juvenile offenders. In addition, the Committee is concerned that, according to a 1998 study of the National Documentation and Analysis Centre for Children and Adolescents, the period of stay in institutions can be very long, contact with the family is not always guaranteed and that 19.5 per cent of these institutions do not have proper authorizations.

34. **In the light of article 20 of the Convention, the Committee recommends that the State party:**

- (a) **Take all necessary measures to ensure the implementation of Law 184/83;**
- (b) **As a preventive measure, improve social assistance and support to families to help them with their child-rearing responsibilities, including through education and counselling of parents and community-based programmes;**
- (c) **Take effective measures to develop alternative forms to institutionalization, such as foster care, family-type foster homes and other family-based alternative care, and place children in institutions only as a measure of last resort;**
- (d) **Ensure regular inspections of institutions by independent bodies;**
- (e) **Establish effective mechanisms for receiving and addressing complaints from children in care, monitor standards of care and, in the light of article 25 of the Convention, establish regular periodic review of placement.**

Adoption

35. The Committee welcomes the State party's ratification of the Hague Convention of 1993 on Protection of Children and Cooperation in respect of Intercountry Adoption, but remains concerned at the different proceedings and costs of domestic adoption, depending on the authorized agency involved.

36. **In the light of article 21 of the Convention, the Committee recommends that the State party take the necessary measures:**

- (a) **To harmonize proceedings and costs of domestic adoption among authorized agencies throughout the State party;**

(b) To conclude bilateral agreements with (sending) countries that have not ratified the aforementioned Hague Convention.

Violence, abuse and neglect

37. The Committee welcomes the establishment of a National Commission for the coordination of action regarding maltreatment, abuse and sexual exploitation of children and the adoption of a global strategy. In addition, the Committee welcomes the enactment of Act 66/96 on sexual violence and Act 154/2001 on domestic violence, but remains concerned at the lack of comprehensive data and information on child abuse and/or neglect. Moreover, the Committee is concerned at the age-limit set in the legislation regarding violence against children, as children above 14 or 16 years (depending on the relations with the perpetrator) do not benefit from the same protection.

38. **In the light of article 19 of the Convention, the Committee recommends that the State party:**

(a) Undertake studies on violence, ill-treatment and abuse against children, especially those from vulnerable groups, including sexual abuse, particularly within the family and at schools in order to assess the extent, scope and nature of such practices;

(b) Develop awareness-raising campaigns with the involvement of children in order to prevent and combat child abuse;

(c) Amend its legislation regarding the existing age-limit set for a special protection against all forms of violence against children;

(d) Evaluate the work of existing structures and provide training to professionals involved in these types of cases;

(e) Investigate effectively cases of domestic violence and ill-treatment and abuse of children, including sexual abuse, within the family through a child-sensitive inquiry and judicial procedure, in order to ensure better protection for child victims, including their right to privacy.

5. Basic health and welfare

Basic health

39. The Committee welcomes the adoption of the Charter of the Rights of the Child in Hospital and takes note of the dramatic decrease in the number of deaths of children resulting from road traffic accidents and in the number of children infected by HIV/AIDS. However, the Committee is concerned at the reluctance of children belonging to vulnerable groups to use health services.

40. **The Committee recommends that the State party take proactive measures to facilitate access to health services to all children and to encourage parents to seek health services that are available for all children.**

Adolescent health

41. The Committee is concerned at the high prevalence of psychological disorders among adolescents (especially eating disorders), and the relatively high incidence of abortions among adolescents, notably those of foreign origin.

42. **The Committee recommends that the State party:**

(a) **Take all necessary measures to strengthen its mental health and counselling services, ensuring that they are accessible and sensitive to adolescents, and undertake studies on the causes and backgrounds of psychological disorders among adolescents;**

(b) **Take further necessary measures to reduce the rate of teenage pregnancies through, inter alia, making health education, including sex education, part of the school curricula, and strengthening the campaign of information on the use of contraceptives.**

6. Education

43. The Committee welcomes the adoption of Act 9/99, which extends the duration of compulsory education from 8 to 10 years, and the various programmes to improve teacher's training, but remains concerned at the high rate of drop-out in upper secondary education; the variations in educational outcomes for children according to their cultural and socio-economic background, and to other factors such as gender (more girls than boys do obtain a secondary education diploma), disability and ethnic origin. In addition, the Committee is concerned at the prevalence of bullying in schools and at the lack of consideration of the views of children within education.

44. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to curb the drop-out rate in upper secondary education;**

(b) **Take all necessary measures to eliminate the inequalities in educational achievement between girls and boys and among children from different social, economic or cultural groups and to guarantee to all children quality education;**

(c) **Take measures to set up adequate mechanisms and structures with the participation of children to prevent bullying and other forms of violence in schools and include children in the development and implementation of these strategies;**

(d) **Ensure that legislation throughout the State party reflects article 12 of the Convention and respects children's rights to express their views and have them given due weight in all matters concerning their education, including school discipline.**

7. Special protection measures

Unaccompanied minors

45. The Committee welcomes the establishment of the Committee for the Protection of Foreign Children and the specific reference made to the Convention in Law 40/98 on immigration regarding access to health. However, the Committee remains concerned at the lack of adequate structures to receive unaccompanied minors; the lack of harmonization of the procedure dealing with unaccompanied minors in the various regions; the new provision under Act 189/2002 which permits the detention of undocumented immigrants; the implementation of Decree 113/99 which leads to an increase in repatriations without adequate follow-up; and the change which occurred in 2000 regarding residence permit for minors.

46. **In accordance with the principles and provisions of the Convention, especially articles 2, 3, 22 and 37, and with respect to children, whether seeking asylum or not, the Committee recommends that the State party:**

(a) Strengthen efforts to establish enough special reception centres for unaccompanied minors, with special attention to those who have been victims of trafficking and/or sexual exploitation;

(b) Ensure that the stay in these centres is for the shortest time possible and that access to education and health is guaranteed during and after the stay in a reception centre;

(c) Adopt, as soon as possible, a harmonized procedure in the best interests of the child to deal with unaccompanied minors throughout the State party;

(d) Ensure that assisted repatriation is envisaged when it is in the best interests of the child and that a follow-up is guaranteed for those children.

Economic exploitation

47. The Committee notes the recent report of the National Statistics Institute regarding child labour in the State party and expresses its concerns at the high prevalence of this phenomenon in the State party.

48. **The Committee recommends that the State party develop, on the basis of the recent study, a comprehensive strategy containing specific and well-targeted goals aimed at preventing and eliminating child labour through, inter alia, awareness-raising activities and detection of the factors involved.**

Sexual exploitation and trafficking

49. The Committee welcomes the adoption of Act 269/98 against the exploitation of prostitution, pornography, and sexual tourism targeting children and the establishment of an Inter-Ministerial Committee for the Coordination of the Government Action Against Child

Abuse and Trafficking in Minors and Women for Sexual Purposes. Nevertheless, the Committee remains concerned at the numbers of children who are trafficked for sexual purposes in the State party.

50. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to prevent and combat trafficking in children for sexual purposes, in accordance with the Declaration and Agenda for Action, and the Global Commitment adopted at the 1996 and 2001 World Congresses against Sexual Exploitation;**

(b) **Monitor the implementation of Act 269/68, especially as it addresses the issue of the “demand side” of sexual exploitation;**

(c) **Ensure that adequate resources, both human and financial, are allocated to policies and programmes in this area.**

Administration of juvenile justice

51. The Committee notes that a reform of the juvenile justice system is pending. It is concerned at the existing discrimination against children of foreign origin and Roma children within the juvenile justice system; the lack of independent structures to monitor the conditions of detention of children; and at the inadequate training of the personnel involved in the juvenile justice system.

52. **The Committee recommends that the State party, within its reform of the juvenile justice system, fully integrate the provisions and principles of the Convention, in particular articles 37, 40, and 39, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System.**

53. **In particular, the Committee recommends that the State party:**

(a) **Take all necessary measures, including through awareness-raising campaigns and adequate training of the personnel involved, to prevent and eliminate discrimination against children of foreign origin and Roma children;**

(b) **Allow periodic visits to the Reception Centres and Penal Institutes for Minors by impartial and independent bodies and ensure that every child deprived of his or her liberty has access to an independent, child-sensitive and accessible complaint procedure;**

(c) **Provide training on children’s rights to those responsible for administering juvenile justice.**

Children belonging to minority groups

54. While noting the efforts undertaken by the State party to improve the situation of Roma children, the Committee remains concerned at their difficult social situation and their insufficient access to education and health services. In addition, the Committee is deeply concerned at instances of discrimination against this group of children, sometimes from the personnel of the State party themselves.

55. The Committee recommends that the State party develop, in cooperation with Roma NGOs, comprehensive proactive policies and programmes to prevent social exclusion and discrimination and to allow Roma children to enjoy fully their rights, including access to education and health care.

8. Dissemination of the report

56. **Finally, the Committee recommends that, in accordance with article 44, paragraph 6, of the Convention, the periodic report submitted by the State party be made widely available to the public at large and that consideration be given to the publication of the report, along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion and the concluding observations thereon adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the parliament and the general public, including concerned NGOs.**

9. Next report

57. **In the light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of States parties' responsibilities to children under the Convention is ensuring that the Committee has regular opportunities to examine the progress made in the implementation of the Convention. In this regard, regular and timely reporting by States parties is crucial. As an exceptional measure, in order to help the State party catch up with its reporting obligations in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 4 October 2008, the date on which the fourth periodic report is due. The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.**
