



STATE PARTY EXAMINATION OF ITALY'S THIRD AND FOURTH PERIODIC REPORT

58TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD
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Italy ratified the Convention on the Rights of the Child (CRC) on 5 September 1991. On 20 September 2011, the Committee on the Rights of the Child (the Committee) examined the third and fourth periodic report of Italy. It was last examined on 16 January 2003.

Opening Comments

The delegation of Italy was led by Mr Carlo Giovanardi, Under-Secretary of State, the Department for Family Policies at the Presidency of the Council of Ministers. He was supported by a delegation consisting of representatives of the Ministry of Justice, the Ministry of Labour and Social Policies, the Ministry of Defence, the Ministry of Foreign Affairs and the Permanent Mission in Geneva.¹

Mr Giovanardi expressed his pleasure to address the Committee and to reiterate Italy's strong commitment to the promotion and protection of children's rights at the national and international levels. He recalled that the Italian Government deemed it essential to promote dialogue with civil society, in particular with those non-governmental organizations that operate daily for the protection and promotion of child rights. He emphasised that despite the complexities of the global financial situation, Italy was truly committed to advancing human rights, as evidenced by its recent re-election to the Human Rights Council in June 2011. Also, a national independent human rights institution was approved by the Senate on 20 July 2011, and an ad hoc bill was now under examination in the Chamber of Deputies.

Mr Giovanardi stated that a new political and institutional framework was envisaged to encourage, elaborate and launch relevant initiatives, from designing ad hoc policies, to

¹ More information about delegation members can be found on the OHCHR website, under CRC sessions.

implementing programmes for childhood and adolescence. The position of Ombudsman for Children was created. Mr. Giovanardi highlighted Italy's efforts on poverty reduction, access to education, inter-country adoption, de-institutionalisation of children without parental care, juvenile justice mechanisms and identification of unaccompanied minors.

Peter Guran, first Rapporteur for Italy, thanked the head of delegation for his introduction. He noted that Italy had many legislative frameworks to protect children's rights but that there were a number of new laws whose impact was not yet assessable. Mr Guran acknowledged the importance of creating the post of Ombudsman for Children and was pleased with the decentralisation process concerning the care of adolescents, but noted the delay in reporting about children's rights in Italy.

Hiranthi Wijemanne, second Rapporteur for Italy, also welcomed the delegation. She said that there seemed to be an equity issue between different regions of Italy, notably in the delivery of services. She also mentioned the issue of unaccompanied children, and their increasing need for assistance. Mrs Wijemanne regretted the high drop-out rate from schools, especially at the secondary level, and asked about what solutions had been proposed for this. She pointed out that there were particular challenges for single mothers. Finally she asked about the efficiency of the independent monitoring structures, such as the Ombudsman for Children.

General Measures of Implementation

Legislation

The Committee asked if it was possible to have a guarantee from the Italian government that there would be continuous monitoring and implementation of the Convention. The delegation answered that the government constantly stayed active on the subject of children's rights.

The Committee wanted to know more about how the coordination of the implementation of the Convention was organised. Concerning the horizontal coordination, the Committee asked how coordination was being operated among the different regions of Italy, which tended to be quite autonomous.

The delegation stated that all regions had the same status and were accorded the same level of priority. Concerning the measures taken to eliminate the gap between the northern and southern regions, the delegation reminded the Committee about the National Strategic Framework for Regional Policy 2007–2013 approved by the decision of the European Commission in 2007. This framework established a competitive mechanism linked to the achievement by the eight regions of southern Italy, of verifiable results in terms of community services in essential areas for the improvement of the quality of life and equality of opportunity for citizens and the convenience to invest in business. Among the four aims for the eight regions of southern Italy, the government had aimed to increase the education levels of students and of all people, as well as social and health services for children and the elderly. In particular, social services aimed to alleviate family responsibilities for women, which prevented women from entering the labour market. The total amount of the premium only for the purposes of personal care (crèches and home health care) was 750 million Euros. In particular, regarding the aims of the crèches, the percentage of municipalities with facilities for children had been increased from 21 per cent to 35 per cent and the percentage of children who use the service had risen from 4 per cent to 12 per cent.

Government institutions had been restructured as a result of the 2011 constitutional reform; however, all levels of government had kept their human rights imperatives. The

administrative competences were divided into three areas: civil issues and family rights, regional competence and the residual competence, such as social services. These competences needed to take into account the standards defined to ensure that civil rights were properly complied with. Concerning coordination, there was an organizational set of rules, professional coordination, and financial coordination. Italy had an observatory for children and adolescents, and also an observatory for families. All levels of government were involved, as well as civil society organisations. There were mixed procedures in order to involve all actors, horizontally (between the bodies that take care of families, children and more) and vertically (between the regions and the government). Regions in the south were given technical assistance so that they could be at the same level as the other regions. This fell into the realm of financial cooperation.

Budget

The Committee noted that it was important to find the right proportion of budget reduction, if a reduction was absolutely necessary. The corruption in the Transparency Index was highlighted as a concern, and the Committee hoped that the necessary budget was kept for children. The delegation assured that more than five billion Euros had been made available to ensure that children had benefits available. The delegation also mentioned that there was a very low demand for crèches in the southern regions of the country, because families preferred to raise children themselves. Still, the regions had created a budget for these crèches.

The Committee asked about the independent monitoring structure such as the Ombudsman for children, and how efficient they were. The delegation answered that there was a deep political will to take care of children and adolescents. As such, there would be no political interference with the role of the Ombudsman and it would be totally independent. There would be a fund of 1.5 million Euros per year, and there would be no interference on the part of the government as to how these funds were used. Four regions established and activated the Ombudsman.

Six Regions had issued a law to establish the Ombudsman and had implemented, at different stages, the relevant law, appointing the Ombudsman and implementing its structure. In order to comply with the Paris Principles and function as an Ombudsman, the regional Ombudsmen needed to be as independent as the national Ombudsman. There would be a conference soon with the Ombudsmen and all the bodies that take care of children's rights. The Ombudsman collects reports concerned with children's rights violations and reports directly to the competent authorities about situations of danger or abandonment by considering ex officio any situations that seem to constitute a violation of children's rights (or there is a serious risk of it). In these cases, once all the relevant information and evaluations have been obtained, the Ombudsman can inform the Prosecutor at the Juvenile Court and the competent Ordinary Prosecutor (if the mentioned abuse has criminal relevance or about which the competent Prosecutor's Office could take some initiatives).

With regard to inclusive education, the Committee was concerned about the impact of financial cutbacks on the State's capacity to implement inclusive education programmes.

Dissemination and Training

The Committee asked about the participation of children at both the policy and individual levels. The children's counsels around Italy were a positive point, but their activity seemed

sporadic and unsystematic because of lack of funding. The Committee asked about the participation of children and youth in associations, families, sporting activities and school and asserted that children should be allowed to participate, for example, in decisions concerning the administration of schools and curriculum development. The delegation answered that around 12 per cent of children were volunteering in some form of association. In 2009 the government had commissioned a survey of 20,000 children aged 11, 13 and 15 years. Regarding children's participation, a pamphlet was created to make children aware about the Convention on the Rights of the Child. On 20 November 2011, a high-level event will be organized in coordination with UNICEF to promote the rights of the child in Italy.

The Committee noted that Italy had made significant progress in the adoption of legislation that addresses the realisation of children's rights and asked what had been done to raise awareness among the population about these laws.

Coordination

The Minister for Equal Opportunities was mandated to coordinate , also at international level, all government policies related to all kind of protection of girls.

General Principles

Non-discrimination

The Committee congratulated the delegation on the adoption of the new law regarding non-discrimination. Concerning the right to life, survival and development, the Committee referred to the Roma camps, where children did not have enough access to school and health services. Concerning unaccompanied asylum seeking children in custody, there was an increase in the number of foreign children taken into care by the Office of the Social Services for Children between 2001 and 2006, revealing a growing trend on the part of the judicial authorities to use the integrated system of services of the Juvenile Justice System.

The Committee noted a 70 per cent increase in the number of Roma children who had been accused of having committed a crime and had been subsequently placed in a "probation" institution. The presence of foreign children in such institutions had increased by 112 per cent. The Committee reminded the delegation that unaccompanied children are not criminals and should not be subjected to the juvenile justice system. The Committee also noted that some children taken to community centres after being arrested did disappear before their trial. The delegation answered that of the juveniles arrested, 23.4 per cent had absconded.

The delegation responded that an analysis of the statistical trends for the period from 2001 to 2006, showed no discriminatory treatment by judges from the juvenile courts, or by the Juvenile Justice Services. Indeed, foreign children were placed in Juvenile Penal Institutions, First Reception Centres or Communities because they generally did not have any documents proving their identity.

The delegation pointed out the wide tasks assigned to the Minister for Equal Opportunities in the field of the promotion of human rights, equal opportunities and equal treatment as well as the prevention and removal of all forms and causes of discrimination. With regard to planning and coordination of policy initiatives, including the legislative ones, there were specific tasks concerning child protection.

The right to be heard

The Committee noted that there was a law stating that children under 12 would only be heard in divorce cases if they were deemed to be capable of understanding the situation they were in, but that it seemed that this provision led to children under 12 not being heard at all in most cases. The delegation answered that there was the 12 year limit for criminal and civil procedures. The question of hearing a child under 12 might be deemed to be equivocal but it was not. Children under the age of 12 were heard by a judge. In many courts special hearing rooms had been created, with one-way mirrors for judges to hear the children.

Outside of judicial proceedings, teachers and other social workers in schools were trained to hear children, to prevent abuse. The social worker or teacher did not have to go through the director to report a possible case of abuse. The constitutional body that trained magistrates organised a week of specific training on hearing children.

Civil Rights and Freedoms

Birth registration

The Committee raised the issue of the right of Italian mothers or fathers not to recognise their child and asked about information on how Italy guarantees the rights of all children in Italy to an identity and, as far as possible, to know his/her parents. The delegation answered that women identified for unwanted pregnancy were accompanied by social services and were supported in their decision. The delegation also mentioned that there was an on-going debate in Parliament about this issue concerning how best to balance the rights of the mother with those of the child.

The Committee asked about the rights of children born out of wedlock. The delegation answered that the bill on children born out of wedlock pointed to the responsibilities of the parents. Children born out of wedlock did not have the same inheritance rights as those born to married parents, but noted that this will soon change. These children used to be referred to in legislation as “natural children”; however, this had been deemed discriminatory and amendments to such legislation referred to children generally.

Child abuse and corporal punishment

The Committee mentioned the case of the Italian politician who had been reported on in the Swedish press for striking his child while on holiday in Sweden. The Committee asked whether the Italian government had used this as an occasion to affirm its intolerance of such treatment of children. The Committee asked whether Italy would further promote the prohibition of corporal punishment and noted that there had been no significant progress towards abolishing corporal punishment in practice, although there was a law to ban corporal punishment both in schools and in the realm of the family. The delegation replied that a parent could be sent to prison if there was a danger of mental or physical harm to the child.

The Committee asked about the definition of children and pornography in Italian law, noting that Italy had passed a corresponding law in 2006, but that the definition was unclear. The Committee asserted that the possession of child pornography should be a crime. The delegation mentioned that three million Euros had been set aside for the activities of the Observatory of Childhood, and another fund was set aside for all action planned with regard to countering and preventing paedophile activity. Various ministries were involved in this project and there was a national supervision coordinating regional plans. The definition of the

crime was broader than the definition in the Optional Protocol, and included the distribution of child pornography.

Family Environment and Alternative Care

Early marriage

The Committee asked about the legal provisions for the minimum age of marriage. The delegation responded that boys and girls could get married from the age of 16 with the authorisation of the juvenile court. In most cases this concerned girls who were pregnant. In these cases, the judge had the authority to evaluate whether the persons were mature enough to get married.

The Committee noted the prevalence of early marriage among Roma girls, where in some Roma communities girls had been allowed to marry at 12 years old. The Committee asked what the government was doing to protect these girls.

Adoption and alternative care

The Committee asked for more information about the new programme for inter-country adoption, as well as the State's plan to develop regional and public agencies in this field. The delegation answered that Italy had 60 bodies examining the issues of adoption and had tremendous grassroots structures. There was also a national authority for adoption.

The Committee asked about the prevalence of foster care as a preferred option for alternative care of children and whether there was a process of de-institutionalisation underway. The delegation answered that a law had been passed in 2001 that provided for the closure of childcare institutions. As such, all the care homes had been closed; however, the delegation noted that the implementation of the law and policy shift needed to be monitored. Children had been taken out of institutions, but some institutions still existed, although no children currently lived there. Law 159 addressed the issue of foster care for children.

Basic Health and Welfare

Living standards

The Committee asked whether the State party had considered a multidimensional study on child poverty. The delegation replied that poverty was a complex issue. Italy had invested a lot in pensions for the elderly but had not spent as much time making sure that lower taxes were levied on poor families. The State party had formulated the goal according to which poverty should be reduced by 2010, and the Committee asked whether that goal had been reached. Most recently, the risk for child poverty in Italy was at 24 per cent, whereas in the rest of the European Union, it was 19 per cent.

The Committee noted negative trends concerning breastfeeding of infants and asserted that compliance with the International Code on Marketing of Breast Milk Substitutes needed to be more closely monitored. The delegation responded that national guidelines had been published in 2007 and that the approach was multi-focal, and showed that 81.1 per cent of mothers giving birth in Italian hospitals breastfed for 7.1 months.

Health care and insurance

The Committee wanted to know if parental consent was necessary regarding health treatment and in particular access to information and health services for sexual health purposes. The delegation answered that a teenager almost always needed the consent of the parents, but there were exceptions, for example for abortion. A teenage girl could ask for her parents not to be notified if she was having an abortion. A judge had the authority to decide whether this wish would be respected or not.

The delegation added that health was almost always under regional supervision: the role of national-level government was mostly concerned with coordination.

Children with disabilities

The Committee asked about the application and implementation of the Convention for the Rights of Persons with Disabilities. The delegation answered that the definition of persons with disabilities had been brought in line with international law. There were tailor-made programmes for children with disabilities. Coordinated programmes had been put in place between educational staff and medical staff. Also, special parental leave was available for parents who had children with learning difficulties such as dyslexia.

Adolescent health

The Committee enquired about adolescents who took psychotropic drugs in order to improve school performance, and whether there had been any public awareness-raising campaigns about the issue. Also, the Committee enquired about what was being done to address the increasing use of alcohol, cannabis and cocaine among youth. The delegation answered that there had been awareness-raising campaigns in schools to sensitise adolescents to the risks linked to drugs and alcohol, the risks to themselves and the risks to other persons.

The Committee wanted to know if the State party had introduced sexual education in schools, and what was being done to counter the increasing number of early pregnancies. The delegation replied that there had been a consistent decrease in children born to teenage mothers.

The Committee asked for more information regarding teen suicides. The delegation replied that teenagers who committed suicide were usually between the ages of 14 and 17. There were specific units in hospitals, that had links to schools, and there were also family houses where people would listen to those adolescents.

The Committee regretted that smoking tobacco was allowed from the age of 16, whereas alcohol was allowed from age of 18. The Committee asked whether the State planned to raise the age for access to the purchase of tobacco to 18 years.

Education, Leisure and Cultural Activities

School attendance

The Committee asked about the steps taken to address and reduce the high drop-out rates of students in secondary school. The delegation answered that it would re-launch the development of Southern Italy, mainly for research and school system, by the means of a South Plan, which was adopted by the Ministry of Education, University and Research in order to reduce the high drop-out rates.

Culture and leisure

The Committee asked about after-school services and how the government made sure that the children had access to these services. The delegation noted the importance of children to play.

Special Protection Measures

Asylum seekers

The Committee asked about the living conditions in Lampedusa for irregular migrant children, and asked for more information about those children who had experienced prolonged periods of detention of over 24 hours, and who had been detained with adults. The delegation answered that Italy was trying to tackle a humanitarian emergency. There was a Committee in Italy on foreign, unaccompanied juveniles. Most of them were held in accommodation especially for juveniles, and 127 juveniles were in special accommodation, while 500 were held in bridge facilities, which provided a transitory situation between the arrival and the placement in communities. A sum of 15 million Euros was available for unaccompanied juveniles in Lampedusa. The individuals had been placed in facilities throughout Italy. If the children did not say that they were under 18, examinations, such as x-rays, were carried out, to assess how old they were.

The Committee asked what was being done to address the issue of identifying children, as some were reportedly being identified as adults. The delegation replied that where there was any doubt regarding age, individuals were considered to be children and not adults, to afford them the maximum level of protection.

The Committee asked about how the State party monitored the whereabouts of asylum-seeking children as it had received reports of large numbers of children and youth disappearing from housing facilities. The delegation answered that there were about 7,000 unaccompanied minors in Italy and that the problem prevalence of unaccompanied minors was not only linked to the emergency situation in North Africa. If they were minors, they could not be returned to their country of origin, unless assisted return was organised by the country of origin. Return was only affected if the minor agreed to it, which was almost never the case. Children could be wrongfully returned if it was thought that they were over 18. If the minor had joined the education system and reached the age of 18, they were granted a special authorisation to stay in Italy until they turned 21, at which point they were required to go through the regular residency application procedure.

Child labour

The Committee asked about the monitoring of child labour in Italy. The delegation answered that it was not always easy to monitor child labour. In some areas it is common for children to help their parents at work, like in Chinese shops. Children should support their parents up to a certain degree, but it should not be an obstacle for their further development.

Armed conflict

The Committee asked to what extent the State party ensured compliance with article 38 of the Convention and asked if there was legislation that prohibited children from participating in hostilities. The delegation answered that the new military code had raised the minimum age of enrolment to 18. The Committee asserted that the definition in law, of direct participation in armed conflict, needed to be more clearly defined.

The Committee wanted to know what would happen if the rights of children were violated an Italian-registered multinational company operating abroad. The delegation answered that most of the time multinational firms did not have their headquarters in Italy.

Juvenile justice

The Committee wanted to know whether children were judged in absentia. The delegation answered that there was a special type of trial proceeding for juvenile cases, adding that the age of criminal responsibility was 14 years. . There was a new bill that would provide for a special prison system for juveniles. The prison law moved away from punitive sentences towards rehabilitation and reintegration. Police officers, military police officers and judges receive special training on children's rights and dealing with children in criminal and administrative proceedings and special children's units had been created in courts.

Concluding remarks

The Rapporteur commented that Italy had many legislative frameworks to protect children's rights but that their impact was not yet assessable. The creation of the post of Ombudsman was a very important step and the Rapporteur noted that the movement away from institutionalisation of children and adolescents was positive. The Rapporteur noted that it was important to find the right balance when reducing budgets and that impact on children should be mitigated as much as possible. The Committee had sufficient information to formulate concluding recommendations and the Rapporteur was confident that they would be implemented in a timely manner.

The head of the delegation thanked the Committee for its help and informed the Committee that additional statistics and data could be sent to them.