

## ANDORRA

### CRC CRC/C/114 (2002)

501. The Committee considered the initial report of Andorra (CRC/C/61/Add.3), submitted on 27 July 2000, at its 771st and 772nd meetings (see CRC/C/SR.771-772), held on 29 January 2002, and adopted at the 777th meeting, held on 1 February 2002 (CRC/C/SR.777), the following concluding observations.

#### A. Introduction

502. The Committee welcomes the submission of the State party's initial report, which follows the guidelines for reporting, as well as the detailed written replies to its list of issues (CRC/C/Q/AND.1) containing a lot of statistical data which gave a clearer understanding of the situation of children in the State party. It further notes with appreciation the high-ranking delegation sent by the State party and welcomes the frank dialogue and the positive reactions to the suggestions and recommendations made during the discussion.

#### B. Positive aspects

503. The Committee notes with satisfaction the efforts made by the State party to modernize its traditional legal system. In particular, it welcomes the adoption of the Law on Adoption and Other Forms of Protection for the Abandoned Minor of 1996, the Qualified Law on Minors' Jurisdiction, which partially amends the Penal Code and the Qualified Law on Justice of 22 April 1999, the Law regulating Leave for Maternity or Adoption of 22 June 2000 and the Regulations for Child-care in Private Homes of 2001.

504. The Committee notes with appreciation that a Secretariat of State for the Family was established in May 2001 for effective coordination between the various ministries and institutions in charge of children. It further notes the establishment in May 1999 of a Social Care Unit for Children in charge of vulnerable children.

505. The Committee welcomes the reform of the juvenile justice system with the establishment of judges for minors, a new section for minors within the judiciary, specialized services for juveniles under the Ministry of Justice and the Interior, and the establishment of a minors' unit within the police.

506. The Committee welcomes Andorra's 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.

507. The Committee welcomes the international cooperation on behalf of children provided by the Principality of Andorra in cooperation with non-governmental organizations.

## C. Principal areas of concern and recommendation

### 1. General measures of implementation

#### Legislation

508. The Committee notes that the State party is carrying out a legislative review regarding legislation relevant to children in order to bring it fully into compliance with the principles and provisions of the Convention.

509. The Committee encourages the State party to continue and complete its review of legislation relevant to children to ensure full compliance with the Convention and its rights-based approach.

#### Declaration

510. The Committee is concerned at the State party's declaration on articles 7 and 8 of the Convention made upon ratification, but welcomes the information from the delegation of the State party regarding its possible withdrawal.

511. The Committee encourages the State party to withdraw its declaration made upon ratification of the Convention as soon as possible.

#### Coordination

512. The Committee notes that the newly established Secretariat of State for the Family foresees the creation of a body to coordinate national action and establish effective coordination. However, it is concerned that the coordinating responsibilities of the Secretariat of State for the Family with regard to its activities concerning the implementation of the Convention are unclear.

513. The Committee encourages the State party to strengthen its efforts to make the Secretariat of State for the Family the coordinating body for all activities relating to the implementation of the Convention by ensuring that it is vested with adequate responsibilities and human and financial resources to carry out this task in an effective manner.

#### Monitoring

514. The Committee notes that the *Raonador del Ciutadà* deals, inter alia, with individual complaints concerning activities of the Government and is accessible to all Andorran citizens. However, the Committee expresses its concern that this office does not have a clear mandate covering children's rights and violations and its existence is not known to children.

515. The Committee encourages the State party to establish an independent and effective mechanism, in accordance with the Paris Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134), provided with adequate human and financial resources and easily accessible to children, that:

- (a) Has a clear mandate also to monitor the implementation of the Convention;
- (b) Deals with complaints from children in a child-sensitive and expeditious manner; and
- (c) Provides remedies for violations of child rights under the Convention.

#### Allocation of budgetary resources

516. Notwithstanding the detailed information provided by the State party, the Committee regrets that the data provided by the State party fail to specify the amount allocated to children from the budget.

517. In light of article 4 of the Convention, the Committee recommends that the State party identify the amount and proportion of the State budget spent on children in the public, private and NGO sectors in order to evaluate the impact and effect of the expenditures and also, in view of the costs, the accessibility, the quality and the effectiveness of the services for children in the various sectors.

#### Data collection

518. The Committee acknowledges the considerable and detailed data included in the State party's reports and the intention of the State party to provide guidelines in 2002 to ministries and institutions involved with children with a view to obtaining standardized and coordinated data on children. However, it expresses its concern at the lack of a unified and adequate data-collection mechanism within the State party to ensure the collection of disaggregated data on all aspects of the Convention to be used for the effective monitoring and evaluation of progress achieved and the assessment of the impact of policies adopted with respect to children. It further notes that there is a lack of data on the incidence of HIV/AIDS in the Principality of Andorra.

519. The Committee encourages the State party to continue its efforts to develop a comprehensive system of data collection incorporating all the areas covered by the Convention. Such a system should cover all children below the age of 18 years, with specific emphasis on those who are particularly vulnerable.

#### Dissemination

520. While noting initial efforts to disseminate the Convention among NGOs and the media, the Committee considers that education for children and the public at large and training activities for professional groups on children's rights need ongoing attention.

521. The Committee recommends that the State party:

- (a) Renew its efforts to disseminate the Convention, both to children and to the broader public, including through appropriate material specifically for children translated in the various languages spoken in the Principality of Andorra, including the languages spoken by migrant children;

- (b) Encourage the study on the evaluation of dissemination activities;
- (c) Undertake systematic education and training programmes on the provisions of the Convention for all professional groups working for and with children, such as judges, lawyers, law enforcement officials, civil servants, teachers, health personnel, including psychologists, and social workers.

### Cooperation with NGOs

522. The Committee expresses its concern that the State party's cooperation with NGOs at the national level is not sufficiently developed.

523. The Committee encourages the State party to take adequate steps to improve its cooperation with NGOs at the national level.

### 2. Definition of the child

524. The Committee notes with concern that the low minimum age for marriage is 16 years of age, 14 years of age with a judge's permission.

525. The Committee recommends that the State party review its legislation with a view to increasing the minimum age of marriage.

### 3. General principles

526. The Committee is concerned that the principles of non-discrimination (article 2 of the Convention), best interests of the child (art. 3), the right to life, survival and development of the child (art. 6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

527. The Committee recommends that the State party:

- (a) Appropriately integrate the general principles of the Convention, in particular the provisions of articles 2, 3, 6 and 12, in all relevant legislation concerning children;
- (b) Apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children; and
- (c) Apply these principles in policy-making and planning at every level, as well as in actions taken by social and health welfare and educational institutions, courts of law and administrative authorities.

### Non-discrimination

528. The Committee notes with concern that children of seasonal workers residing illegally in the State party may have difficulties in accessing health and education services.

529. In light of article 2 of the Convention, the Committee, while welcoming the information that the children of seasonal workers residing illegally in the State party are in practice provided with emergency health care, recommends that the State party take the necessary steps to allow these children access to basic and other social services such as health care and education.

530. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of general comment No. 1 on article 29 (1) of the Convention (aims of education) adopted by the Committee.

#### Respect for the views of the child

531. The Committee is concerned that the general principle of the Convention laid down in article 12 (respect for the views of the child) is not fully applied and duly integrated into the implementation of the policies and programmes of the State party.

532. The Committee recommends that further efforts be made to ensure the implementation of the principle of respect for the views of the child. In this connection, particular emphasis should be placed on the right of the child to participate in the family, at school, and generally in society. The general principle should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large as well as educational programmes on the implementation of this principle should be reinforced.

#### Child rights-based approach

533. The Committee is concerned at the traditional approach, essentially based on welfare and protection, taken by the State party with regard to the implementation and monitoring of children's issues.

534. The Committee recommends that the State party strengthen its child rights-based approach on all issues relevant to children.

#### 4. Family environment and alternative care

##### Parental responsibilities

535. The Committee notes with concern the negative impact on children of both parents working during the weekend. It further notes the increase of single-parent families.

536. The Committee recommends that the State party:

(a) Undertake studies on how parental weekend work affects children and on single-parent families in order to assess the extent, scope and nature of these phenomena;

- (b) Develop appropriate measures to deal with these situations.

#### Childcare services for children of working parents

537. The Committee notes with concern that, according to information provided by the State party, only 39.64 per cent of children aged from 0 to 2 years have a place in kindergarten, while in a large percentage of families both parents work. It further notes that the State party has started to take measures to deal with this issue.

538. In light of article 18, paragraph 3, of the Convention, the Committee recommends that the State party:

- (a) Take measures to establish more childcare services;
- (b) Implement effectively the Regulations for Child-care in Private Homes of 2001, including by training the personnel and providing appropriate human and financial support;
- (c) Ensure that the childcare services provided promote early childhood development and meet the needs of working parents.

#### Child abuse/corporal punishment

539. The Committee expresses its concern at the lack of data and information on child abuse and neglect. Further, while noting that corporal punishment in school is prohibited under law, it remains concerned that corporal punishment in the family is not expressly prohibited. It also notes with concern reports about episodes of bullying in schools.

540. In light of article 19, the Committee recommends that the State party:

- (a) Undertake studies on violence, ill-treatment and abuse, including sexual abuse, within the family, and bullying in schools in order to assess the extent, scope and nature of these practices;
- (b) Develop awareness-raising campaigns in order to prevent and combat child abuse with the involvement of children;
- (c) Evaluate the work of existing structures and provide training to the professionals involved in this type of case;
- (d) Investigate effectively cases of violence, 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 of child victims, including the protection of their right to privacy;
- (e) Prohibit the practice of corporal punishment in the family and conduct information campaigns targeting, among others, parents, children, law enforcement and judicial officials and teachers, explaining children's rights in this regard and encouraging the use of alternative forms of discipline

in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28 (2).

## 5. Basic health and welfare

### Adolescent health

541. The Committee expresses its concern about the health problems faced by adolescents within the State party, including drug abuse, and the fact that they make little use of the health services available to them. In particular, it takes note of the number of cases of anxiety and depression affecting children and of the fact that psychological treatments for children are not covered by the national social security system.

542. The Committee recommends that the State party:

- (a) Continue and expand the services provided by Consulta Jove;
- (b) Continue and strengthen its activities to prevent HIV/AIDS and sexually transmitted diseases, drug and other substances abuse and unwanted pregnancies, and strengthen the programme of health education in schools;
- (c) Undertake a study on child mental health problems, in particular anxiety and depression, and take measures to prevent and combat them;
- (d) Ensure that psychological treatments for children are covered by the national social security system.

## 6. Special protection measures

### Economic exploitation

543. Noting the attention given by the State party to children under 16 working in a family context, the Committee is concerned that such work may interfere with children's right to education.

544. The Committee recommends that the State party continue and strengthen its efforts to ensure respect for the rights of children under 16 working in a family context, particularly the right to education.

### Juvenile justice

545. While noting the improvements in the juvenile justice system as a result of the enactment of the Qualified Law on Minors' Jurisdiction, which partially amends the Penal Code and the Qualified Law on Justice of 22 April 1999, the Committee is concerned that juveniles aged 16 and 17 years are treated as adults and can be sentenced to up to 15 years of imprisonment.

546. The Committee recommends that the State party establish a juvenile justice system which is in full compliance with the Convention, in particular articles 37, 40 and 39, as well as with other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), in particular by extending the applicability of the Qualified Law on Minors' Jurisdiction to all children under the age of 18 at the time the offence was committed.

#### 7. Dissemination of documentation

547. In light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations 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 non-governmental organizations.