

## SAN MARINO

### CRC CRC/C/133 (2003)

23. The Committee considered the initial report of San Marino (CRC/C/8/Add.46), submitted on 25 April 2002, at its 892nd and 893rd meetings (see CRC/C/SR.892 and 893), held on 16 September 2003, and adopted, at the 918th meeting, held on 3 October 2003 (see CRC/C/SR.918), the following concluding observations.

#### A. Introduction

24. The Committee notes with appreciation the submission of the State party's initial report. The Committee also takes note of the timely submission of the written replies to its list of issues (CRC/C/Q/SMR/1), which allowed for a clearer understanding of the situation of children in the State party. The Committee also notes with appreciation the presence of a high-level and multisectoral delegation, which contributed to an open dialogue and a better understanding of the implementation of the Convention in the State party.

#### B. Positive aspects

25. The Committee notes with appreciation the many measures taken to implement the Convention, *inter alia*:

(a) The ratification of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) That all children with disabilities are in regular schools with the exception of severely disabled children;

(c) The adoption of Law No. 61 of 30 April 2002 on the suppression of the sexual exploitation of children;

(d) The establishment of a special juvenile justice procedure as a result of the enactment of Law No. 83/1999 of 28 October 1999.

#### C. Principal subjects of concern and recommendations

##### 1. General measures of implementation

##### Legislation

26. The Committee welcomes Act No. 36 of 26 February 2002 which has changed the system of the sources of law in the State party by considering general international law as an integral part of its constitutional order and notes that new laws have been adopted by the State party to harmonize the existing legislation with the Convention, but remains concerned that domestic legislation still

does not fully reflect the principles of the Convention. The Committee is further concerned that *ius commune* is still the predominant rule, which may not always be conducive to the realization of children's rights.

27. The Committee encourages the State party to take all necessary measures to ensure that its domestic legislation conforms fully to the principles and provisions of the Convention. In that regard, the Committee recommends that the State party make a comprehensive review of its *ius commune* to identify the provisions of domestic legislation which contradict the principles and provisions of the Convention.

#### Child rights policy and coordination

28. The Committee notes that the child rights policy is part of the general policy and is concerned that within that framework insufficient attention is given to a rights-based approach to the implementation of the Convention. The Committee further notes the coordinating role of the Minor Service (as established in Law No. 21 of 3 May 1977) in child welfare and child protection, but is concerned about the lack of a clear statutory mandate for the coordination of the implementation of the Convention.

29. The Committee recommends that the State party systematically work on the development of a strong rights-based child policy covering all rights contained in the Convention. Furthermore, it recommends that the State party establish a clear statutory mandate for the Minor Service as the coordinating body within the Government for the implementation of the Convention.

#### Independent monitoring structures

30. The Committee is concerned that there is no comprehensive and independent monitoring of the Convention's implementation in the State party.

31. The Committee recommends that the State party consider establishing an independent mechanism 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) and, in light of the Committee's general comment No. 2 on national human rights institutions, monitor and evaluate progress in the implementation of the Convention.

#### Training/dissemination of the Convention

32. While noting the efforts to disseminate the Convention, the Committee is of the opinion that education for children and training activities for professional groups on children's rights are not systematic.

33. The Committee recommends that the State party pursue its efforts to disseminate the Convention, both to children and to the broader public. It also recommends that the State party undertake systematic ongoing 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.

## 2. General principles

### Non-discrimination

34. While noting that discrimination is prohibited under the Declaration of Citizens' Rights and of the Fundamental Principles of the San Marino Constitutional Order, the Committee remains concerned that no criminal law provisions exist to combat racism and discrimination.

35. The Committee recommends that the State party:

(a) Make greater efforts to ensure that all children within its jurisdiction enjoy all rights set out in the Convention without discrimination, in accordance with article 2;

(b) Adopt and implement provisions in order to combat racism and discrimination;

(c) Ratify the Convention on the Elimination of All Forms of Discrimination against Women.

36. 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 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking account of general comment No. 1 on article 29, paragraph 1, of the Convention (aims of education).

### Best interests of the child and respect for the views of the child

37. While noting the efforts undertaken by the State party, the Committee is concerned that two general principles of the Convention, as laid down in articles 3 (best interests of the child) and 12 (respect for the view of the child), are not fully applied and duly integrated into the implementation of the policies and programmes of the State party.

38. The Committee encourages the State party to pursue its efforts to ensure the implementation of the principles of the best interests of the child and respect for the views of the child. In this connection, particular emphasis should be placed on the right of the child to participate actively in the family, at school, within other institutions and bodies, and generally in society. The general principles 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 these principles should be reinforced.

## 3. Civil rights and freedoms

39. The Committee is concerned at the lack of information on the implementation of articles 13 to 18 of the Convention in the daily life of children.

40. The Committee requests the State party to include in its next report information on the

implementation in practice of articles 13 to 18 of the Convention, e.g. in schools and in the family.

#### 4. Family environment and alternative care

##### Adoption

41. While welcoming the adoption of Act No. 83 of 20 July 1999 on the adoption of foreign children and noting that de facto almost all adoptions are intercountry adoptions, the Committee is concerned about possible irregularities in these cases of adoption. It is further concerned that the Registry Office does not make any reference to the natural parents of adopted children, which implies that such children do not have the right to know their natural parent(s).

42. The Committee recommends that the State party provide the child, in accordance with article 8 of the Convention, with the right to know, as far as possible, his/her natural parent(s) and to ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993. The Committee further recommends that the State party undertake a study on intercountry adoptions to better assess the situation.

##### Protection from abuse and neglect

43. The Committee welcomes the information that article 234 of the Penal Code also includes the prohibition of corporal punishment, but is concerned at the lack of any concrete statistical data and other information on the prevention and prevalence of and intervention in cases of child abuse and neglect.

44. The Committee recommends that the State party undertake awareness-raising campaigns on the negative impact of corporal punishment. Furthermore, the State party should undertake studies to assess the prevalence and nature of violence against children and develop a comprehensive plan of action based on this study for the prevention of and intervention in cases of child abuse and neglect, including the provision of services for recovery and social reintegration of victims, taking into account the recommendations of the Committee adopted at its days of general discussion on children and violence (see CRC/C/100, para. 688 and CRC/C/111, paras. 701-745).

#### 5. Basic health and welfare

45. The Committee is concerned at the very high prevalence of obesity among children in the State party.

46. The Committee recommends that the State party take effective measures to continue and strengthen its special programmes to address the issue of child obesity and promote a healthy lifestyle among children.

#### 6. Optional Protocols

47. The Committee notes that the State party has signed but not yet ratified the two Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and

child pornography, and on the involvement of children in armed conflict.

48. The Committee encourages the State party to ratify and implement the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict.

#### 7. Dissemination of documentation

49. Finally, 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, its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations. The Committee recommends that the State party request international cooperation in this regard.

#### 8. Periodicity of submission of reports

50. 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' responsibilities to children under the Convention includes ensuring that the United Nations Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some States parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its combined second, third and fourth periodic reports by 24 December 2008, due date for the submission of the fourth periodic report. Such a report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report thereafter every five years, as foreseen by the Convention.