

CHILDREN'S RIGHTS - BEST INTERESTS

IV. CONCLUDING OBSERVATIONS

ICESCR

- United Kingdom of Great Britain and Northern Ireland, ICESCR, E/1998/22 (1997) 56 at para. 308.

The State party should reconsider its policy and procedures for placing large numbers of children in foster homes in light of the reported increase of abuse of children as a result of that policy, and should examine the feasibility of greater use of effectively supervised children's homes if this would be in the best interests of the child.

CRC

- Bolivia, CRC, CRC/C/16 (1993) 13 at para. 41.

With regard to budgetary priorities in the allocation of available resources, the State party should be guided by the principle of the best interests of the child, as provided for in article 3 of the Convention, particularly as this applies to the most vulnerable groups of children, such as girl children, indigenous children, and children living in poverty, including abandoned children.

- Sweden, CRC, CRC/C/16 (1993) 16 at para. 57.

With regard to children in conflict with the law, further consideration should be given to ensuring that children in detention are separated from adults, taking into account the best interests of the child and alternatives to institutional care. In this connection, those countries where arrangements for liaison between juveniles and the police force have been established should be studied. Consideration should also be given to providing alternatives to the incarceration of children under the Aliens Act and that a public defence counsel be appointed for children in conflict with the law.

- Russian Federation, CRC, CRC/C/16 (1993) 21 at para. 82.

The compatibility of juvenile justice and penitentiary institutions with article 37 of the Convention and how the rights of the child to leisure and contacts with the family and how the best interests of the child are protected in such situations, are of concern.

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- Egypt, CRC, CRC/C/16 (1993) 24 at para. 106.

Adequate protection should be afforded to children in conflict with the law. The appropriate amendments should be made to Juveniles Act No. 31 of 1974 to adequately reflect the provisions of the Convention as well as other international standards in this field, such as the "Beijing Rules", the "Riyadh Guidelines" and the Rules for the Protection of Juveniles Deprived of their Liberty. In that regard, it is suggested that the general principles relating to the best interest and dignity of the child and his or her role in society be taken into account. Deprivation of liberty should always be envisaged as the very last resort, and particular attention should be paid to rehabilitation measures, psychological recovery and social reintegration. Furthermore, deprivation of liberty in social care institutions should be regularly monitored by a judge or an independent body.

- El Salvador, CRC, CRC/C/20 (1993) 19 at para. 85.

There is a need to seriously consider questions relating to the legal definition of the child, in particular the minimum age for marriage, employment, military service and testimony before a court. It appears that these provisions do not sufficiently take into consideration the principles of the best interest of the child and non-discrimination.

- Costa Rica, CRC, CRC/C/20 (1993) 25 at para. 135.

The best interests of the child must be the guiding principle in the application of the Convention, especially with regard to labour legislation and adoption. In the framework of the adoption process, due consideration should be given to the provisions of article 12 as regards respect for the views of the child.

- Mexico, CRC, CRC/C/24 (1994) 12 at paras. 32, 40 and 41.

Paragraph 32

The fact that laws and regulations relevant to the enforcement of the rights of the child are not always compatible with the provisions of the Convention is of concern. It is regrettable that there is no provision in the national legislation relating to the best interests of the child or the prohibition of discrimination against children. Mere reference in the State party's report to the Convention as being the "Supreme Law of the Land", pursuant to article 133 of the Constitution, should not preclude the Government from taking the necessary steps to fully harmonize national legislation with the provisions of the Convention, namely in the light of article 4 of the Convention. Similarly, the National Programme of Action adopted in 1990 and its enforcement machinery, based on the targets identified by the World Summit for Children, do not fully take into account the particularities of the

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Convention.

Paragraph 40

Principles relating to the best interests of the child and the prohibition of discrimination in relation to children should be incorporated into domestic law, and it should be possible to invoke them before the courts. Relevant mechanisms should also be set up, parallel to those deriving from the National Programme of Action, to monitor the implementation of the Convention at the federal, state and local levels. Coordination between the various levels of the administration, as well as cooperation with non-governmental organizations involved in the implementation of the Convention and the monitoring thereof, should be strengthened.

Paragraph 41

The best interests of the child must be a guiding principle in the application of the Convention and the authorities should undertake all appropriate measures to the maximum extent of their available resources to ensure that sufficient resources are allocated to children, particularly children living and/or working in the streets, children belonging to minority groups or indigenous communities and other vulnerable children.

- France, CRC, CRC/C/29 (1994) 17 at paras. 97 and 105.

Paragraph 97

The importance of close cooperation between the central Government and the local authorities, including on budgetary matters, to minimize disparities which may arise between the regions as to the provision of services is emphasized. Also emphasized is the value of adopting a comprehensive approach to the implementation of the rights of the child which is both effective and consistent with the provisions and general principles of the Convention, particularly the best interests of the child and non-discrimination, which apply irrespective of budgetary resources.

Paragraph 105

In light of the best interests of the child, the employment of children who have not yet completed their compulsory schooling, as in the case of domestic servants and family enterprises, including in the area of agriculture, deserves reconsideration. The State party is encouraged to review the access by children to activities in the fashion industry in order to ensure that this only takes place on the basis of a case-by-case approach and in the light of the best interests of the child.

- Chile, CRC, CRC/C/29 (1994) 25 at para. 152.

A legal system of administration of juvenile justice should be established in the light of the principles and provisions of the Convention, in particular articles 37 and 40, as well as other relevant United

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Nations standards, including the Beijing Rules, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Riyadh Guidelines. Such a legal system should also address the important question of the minimum age of criminal responsibility, particularly in the light of the best interests of the child. In this respect, the attention of the State party is drawn to the availability of the programme of advisory services and technical assistance of the Centre for Human Rights.

- United Kingdom of Great Britain and Northern Ireland, CRC, CRC/C/38 (1995) 35 at para. 213.

The principle of the best interests of the child appears not to be reflected in legislation in such areas as health, education and social security, which has a bearing on the respect for the rights of the child.

- Belgium, CRC, CRC/C/43 (1995) 20 at para. 105.

Concern is expressed over the fact that children who belong to disadvantaged groups appear more likely to be placed in care. In this regard, the Committee recalls the importance of the family in the upbringing of a child and emphasizes that the separation of a child from his or her family must take the child's best interest as a primary consideration.

- Senegal, CRC, CRC/C/46 (1995) 21 at para. 138.

A study on comprehensive law reform should be conducted under the auspices of UNICEF. The principles relating to the best interests of the child, the prohibition of discrimination and of participation of children in matters affecting them should be reflected in domestic law. Specific provisions should be included with a view to clearly forbidding female genital mutilation and any form of torture or cruel, inhuman or degrading treatment or punishment, as well as of any form of corporal punishment within the family.

- Yemen, CRC, CRC/C/50 (1996) 9 at para. 31.

Insufficient steps have been taken to bring existing legislation into full conformity with the Convention, including the general principles of the Convention, in particular the principles of non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12).

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- Mongolia, CRC, CRC/C/50 (1996) 13 at paras. 60, 72 and 75.

Paragraph 60

Concern is expressed that the State party has not yet taken fully into account in its legislation the general principles of the Convention: article 2 (principle of non-discrimination), article 3 (principle of the best interests of the child), article 6 (right to life, survival and development) and article 12 (respect for the views of the child).

Paragraph 72

In the framework of its legal reform, the Government should fully take into account the provisions of the Convention on the Rights of the Child, especially its general principles (arts. 2, 3, 6 and 12).

Paragraph 75

Budget allocations for the implementation of economic, social and cultural rights should be ensured to the maximum extent of available resources and in the light of the best interests of the child.

- Yugoslavia (Serbia and Montenegro), CRC, CRC/C/50 (1996) 17 at para. 107.

A solution should be found to the situation of Albanian-speaking children in Kosovo, especially in the light of the principles and provisions of the Convention, including those of article 3 relating to the best interests of the child. The State-controlled mass media, in the interests of healing and building trust within the country, have a role and a responsibility to contribute to the efforts to foster tolerance and understanding between different groups, and the broadcasting of programmes that run counter to this objective should end. The securing and dissemination of broader and more diverse sources of information designed for children, including by broadcasting them on the mass media, would assist in ensuring further implementation of the principles and provisions of the Convention, including those of article 17. Measures should also be taken to improve the activities of the mass media in imparting information to children in their own language, including Albanian.

- Iceland, CRC, CRC/C/50 (1996) 23 at paras. 141 and 148.

Paragraph 141

The best interest of the child to spend time in his/her family environment may be infringed by the long working hours of parents. Sufficient measures have not been taken to prevent children from being alone at home during their parents' working hours. In this connection, the insufficient availability of places in nursery schools is of concern.

Paragraph 148

The procedures with regard to custody or to the separation of the child from his or her parents should

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be reviewed in order to ensure that the best interests of the child are always a primary consideration.

- Republic of Korea, CRC, CRC/C/50 (1996) 26 at paras. 157 and 171.

Paragraph 157

The reservations made by the State party to article 9, paragraph 3, article 21, paragraph (a) and article 40, paragraph 2 (b)(v) raise questions about their compatibility with the principles and provisions of the Convention, including the principles of the best interests of the child and respect for the views of the child.

Paragraph 171

The Government should pursue its efforts to ensure full compliance of its national legislation with the provisions and principles of the Convention, including non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12).

- Croatia, CRC, CRC/C/50 (1996) 31 at para. 207.

Special efforts should be made to resolve the problem of property owners returning to their homes before their occupiers have been able to find alternative shelter in the light of the best interests of the child and, when necessary, in the framework of international cooperation.

- Finland, CRC, CRC/C/50 (1996) 35 at para. 222.

It is of concern that the State party has not yet fully taken into account in its legislation and in its policies the general principles of the Convention, in particular non-discrimination (art. 2), the best interests of the child (art. 3) and respect for the views of the child (art. 12).

See also:

- Cyprus, CRC, CRC/C/54 (1996) 38 at para. 244.

- China, CRC, CRC/C/54 (1996) 18 at para. 117.

There is a need to consider questions relating to the definition of the child, including in relation to the age of criminal responsibility, so as to ensure that national legislation and related procedures duly take into consideration the provisions and general principles of the Convention, including the best interests of the child.

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- Nepal, CRC, CRC/C/54 (1996) 25 at para. 160.

Concern is expressed that the State party has not fully taken into account in its legislation and policy-making the general principles of the Convention: article 2 (principle of non-discrimination), article 3 (principle of the best interests of the child), article 6 (right to life, survival and development) and article 12 (respect for the views of the child).

- Cyprus, CRC, CRC/C/54 (1996) 38 at paras. 247 and 263.

Paragraph 247

Concern is expressed about the decisions made in matters relating to adoption without fully respecting the principles of article 3 (best interest of the child).

Paragraph 263

National law and practices with regard to adoption should fully conform with the Convention and the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, including the principle of the best interests of the child.

- Nigeria, CRC, CRC/C/57 (1996) 12 at paras. 66 and 93.

Paragraph 66

Consideration of the impact of various policy options on the enjoyment of the rights of the child should ensure that the "best interests of the child" guide the decision-making process.

Paragraph 93

The best interests of the child should prevail in proceedings concerning child victims of parental abuse, especially in deciding whether parents have the right to represent their child in such cases.

- Bulgaria, CRC, CRC/C/62 (1997) 7 at paras. 36, 48 and 51.

Paragraph 36

The insufficient consideration of the principle of the best interests of the child in tackling situations of detention, institutionalization and abandonment of children, as well as in relation to the right of the child to testify in court, is of concern.

Paragraph 48

All necessary measures should be taken to fully account for the principle of the best interests of the child for every decision relating to the child's right to give testimony before a court.

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Paragraph 51

Appropriate alternatives to institutional care should be developed, with the best interests of the child as the primary consideration, as well as the promotion of his or her harmonious development and preparation for responsible participation in society. In cases where the placement of children in institutions is necessary, measures should be adopted to ensure periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement. Consideration should be given to the establishment of a system of "*guardian ad litem*".

See also:

- Uruguay, CRC, CRC/C/57 (1996) 19 at para. 120.

- Togo, CRC, CRC/C/69 (1997) 39 at para. 253.

The insufficient measures taken to ensure the effective implementation of the general principles of non-discrimination (article 2), the best interests of the child (article 3), the right to life, survival and development (article 6) and respect for the views of the child (article 12) in relation to legal, judicial and administrative decisions, as well as to the political decision-making process, are of concern.

- Japan, CRC, CRC/C/79 (1998) 25 at para. 163.

The lack of necessary safeguards to ensure the best interests of the child in cases of intercountry adoption is of concern.

- Luxembourg, CRC, CRC/C/79 (1998) 38 at para. 252.

It is of concern that the right of the child to know his or her parents is being denied to children born anonymously ("under x"), even if this right is proven to be in their best interests.

- Austria, CRC, CRC/C/84 (1999) 7 at paras. 44 and 55.

Paragraph 44

Instances of gender discrimination remain of concern. An in-depth study of the ages of sexual consent and sexual relations should be undertaken, taking into account present legislation, its implications and its impact on children, with a view to ensuring that the legislation is as conducive to the realization of the rights of girls as of boys and having regard for the best interests of the child.

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Paragraph 55

Legislation which permits the detention of asylum-seeking children pending deportation is of serious concern. The practice of detaining asylum-seeking children should be reconsidered, and such children should be treated in accordance with the best interests of the child.

- Honduras, CRC, CRC/C/87 (1999) 26 at para. 115.

Further efforts should be made to ensure the implementation of the principles of “best interests of the child” and “respect for the views of the child”, especially his or her right to participate in the family, at school, within other institutions and in society in general. These principles should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large, including communities and religious leaders, as well as educational programmes on the implementation of these principles, should be reinforced in order to change traditional perceptions regarding children as objects and not as subjects of rights.

See also:

- Ecuador, CRC, CRC/C/80 (1998) 9 at para. 42.
- Bolivia, CRC, CRC/C/80 (1998) 22 at para. 105.
- Venezuela, CRC, CRC/C/90 (1999) 10 at para. 46.

- Chad, CRC, CRC/C/87 (1999) 45 at para 197.

Of concern is the family preference for negotiated settlement of incidents of sexual abuse and exploitation of girls by teachers, which does not provide adequate protection and may lead to double victimization. This issue should be reviewed to ensure that priority is given to protection from sexual abuse and exploitation, taking fully into account the best interests of the child, and perpetrators should be appropriately sanctioned.

- Nicaragua, CRC, CRC/C/87 (1999) 54 at para. 229.

Domestic legislation (e.g. the Code on Children and Adolescents) has included the principles of the “best interests of the child” (art. 3) and “respect for the views of the child” (art. 12). Nevertheless, there is a lack of practical implementation of these principles, in particular the child's right to express his/her views in a judicial or administrative procedure affecting him/her, as established in article 17 of the Code on Children and Adolescents, which may not be respected in all cases in a culture where respect of the views of the child is not fully developed. Further efforts should be made to ensure the implementation of the principles of “best interests of the child” and “respect for the views of the

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child”, especially his or her right to express his/her views in the family, at school, within other institutions and in society in general. These principles should also be reflected in all policies and programmes relating to children. With regard to article 17 of the Code on Children and Adolescents, the evolving capacity of the child should always be taken into consideration in all judicial and administrative processes or decisions affecting the child.

- Russian Federation, CRC, CRC/C/90 (1999) 18 at para. 106.

Ratification of the 1980 Hague Convention on the Civil Aspects of International Child Abduction should be actively considered. Efforts to establish procedures regarding intercountry adoption should be strengthened with a view to protecting the best interests of the child.

- Vanuatu, CRC, CRC/C/90 (1999) 29 at para. 155.

Measures should be undertaken, including the allocation of adequate human and financial resources, to develop youth-friendly counselling, care and rehabilitation facilities that would be accessible, without parental consent, where this is in the best interests of the child. Reproductive health education programmes for adolescents should be strengthened and the inclusion of men in all training programmes on reproductive health should be ensured.

- Mali, CRC, CRC/C/90 (1999) 43 at para. 220.

Efforts should be increased to promote adolescent health policies, particularly with respect to accidents, suicide and violence, and to strengthen reproductive health education and counselling services. Further measures should be undertaken, including the allocation of adequate human and financial resources, to develop youth-friendly counselling, care and rehabilitation facilities for adolescents that would be accessible without parental consent, where this is in the best interests of the child.

See also:

- South Africa, CRC, CRC/C/94 (2000) 81 at para. 444.
- Lithuania, CRC, CRC/C/103 (2001) 47 at para. 291.

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- Sierra Leone, CRC, CRC/C/94 (2000) 24 at paras. 151 and 152.

Paragraph 151

Concern is expressed that the principle of the best interests of the child has not been systematically taken into consideration in administrative and legal policy and practice.

Paragraph 152

It is recommended that the State party consider ways through which the principle of the best interests of the child can be promoted and protected.

- The Former Yugoslav Republic of Macedonia, CRC, CRC/C/94 (2000) 45 at para. 256.

The State party is encouraged to integrate the principle of the best interests of the child into all legislative and administrative practices, and to review its decision-making and implementation procedures so as to ensure that the best interests of the child are a primary consideration.

- Peru, CRC, CRC/C/94 (2000) 64 at para. 370.

The efforts made by the State party for the implementation of the principle of “best interests of the child” (art. 3) in judicial and other administrative procedures are noted. These measures need to be strengthened. Further efforts should be made to ensure the implementation of the principle of “best interests of the child”. This principle should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large, including community leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children who are too often regarded as objects (*Doctrina de la Situación Irregular*) rather than subjects of rights.

- Islamic Republic of Iran, CRC, CRC/C/97 (2000) 8 at paras. 46 and 47.

Paragraph 46

Concern is expressed that the general principle of the best interests of the child contained in article 3 of the Convention is not a primary consideration in all actions concerning children, including in matters relating to family law (e.g. duration of custody under articles 1169 and 1170 of the Civil Law is arbitrary as it is determined by the child’s age, and is discriminatory against the mother).

Paragraph 47

Legislation and administrative measures should be reviewed to ensure that article 3 of the Convention is duly reflected therein.

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See also:

- Jordan, CRC, CRC/C/97 (2000) 31 at paras. 179 and 180.
 - Egypt, CRC, CRC/C/103 (2001) 36 at paras. 228 and 229.
 - Saudi Arabia, CRC, CRC/C/103 (2001) 71 at paras. 399 and 400.
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- Georgia, CRC, CRC/C/97 (2000) 18 at paras. 102, 103 and 113.

Paragraph 102

The general principle of the best interests of the child has not been fully taken into account in the State party's legislative, administrative and judicial decisions, as well as in policies and programmes relevant to children.

Paragraph 103

All appropriate measures should be taken to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children.

Paragraph 113

The State party should: provide adequate resources, both financial and human, for effective implementation of the new law on foster care; introduce programmes to raise awareness and promote foster care; and undertake measures to regulate kinship fostering in order to ensure that the best interests of the children concerned are taken into account.

See also:

- Suriname, CRC, CRC/C/97 (2000) 84 at paras. 475 and 476.
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- Norway, CRC, CRC/C/97 (2000) 43 at paras. 231, 232, 239, 240, 243, 244, 262 and 263.

Paragraph 231

The State party's significant efforts to respect the best interests principle are acknowledged, but it is noted that improvements can be made. In particular, in the context of the role of municipal authorities, the best interests of the child are not always taken into full consideration. The best interests of children with an imprisoned parent, unaccompanied child asylum-seekers or refugees are not always a primary consideration.

Paragraph 232

The State party should, in consultation with the office of the ombudsperson and with civil society,

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consider the implications of the best interests principle in the context of the above situations and further efforts should be made to ensure that the principle is a primary consideration in decisions which affect children.

Paragraph 239

Concern is expressed that the best interests of the child, and in particular, child rights with regard to separation from parents, are not fully respected in the context of maintaining contact with parents serving prison sentences. Despite the State party's positive efforts, concern is expressed that when decisions to deport foreigners convicted of a criminal offence are taken, professional opinions on the impact of such decisions upon the children of the deported persons are not systematically referred to and taken into consideration.

Paragraph 240

Application of family contact rules for imprisoned persons should be flexible so as to ensure that a child maintains personal relations and direct contact with an imprisoned parent, where this is in the best interests of the child. The process through which deportation decisions are made should be reviewed to ensure that, where deportation will mean the separation of a child from his or her parent, the best interests of the child are taken into consideration.

Paragraph 243

Concern is expressed about the increase in the numbers of children being placed outside their parental home, in particular through the informal voluntary placement procedure which might not always guarantee that the best interests of the child are observed.

Paragraph 244

The factors which lead to the need to place children outside their parental homes and the practice of informal placement itself should be analyzed, and effective measures should be taken to guarantee that the rights of children to family life and the best interests of the child are respected.

Paragraph 262

Concern is expressed that responses by the State party to children who commit crimes often focus either uniquely on child welfare action or, for children over 15, on responses appropriate for adult offenders, with insufficient emphasis being placed on the preventive and rehabilitative aspects of juvenile justice.

Paragraph 263

Efforts should be pursued to ensure that the best interests of the child are a primary consideration in the context of juvenile justice proceedings, giving greater consideration to the need for prevention and rehabilitation of child offenders.

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- Malta, CRC, CRC/C/97 (2000) 75 at paras. 419, 422 and 423.

Paragraph 419

The State party should review its domestic legislation regarding the minimum legal ages for criminal responsibility and for access to medical counselling without parental consent to bring them in accordance with the principles and provisions of the Convention, especially the best interests of the child.

Paragraph 422

While some measures have been adopted to incorporate the principle of the best interests of the child, these principles are not sufficiently taken into account, especially within the family, the school, in care institutions and in the justice system.

Paragraph 423

It is recommended that the principle of the best interests of the child be included in all relevant legislation affecting children and taken into account in all administrative and judicial decisions, as well as in all policies and programmes related to children.

- Suriname, CRC, CRC/C/97 (2000) 84 at para. 486.

Paragraph 486

The State party should take measures to ensure the effective monitoring and follow-up of placements in the foster care programme; introduce programmes to raise awareness and promote foster care; and take measures to regulate the “*kweekjes* system” in order to ensure that the best interests of the children concerned are taken into account.

- Finland, CRC, CRC/C/100 (2000) 8 at paras. 47-50 and 60.

Paragraph 47

It is noted that the State party has made efforts to include the principles of the best interests of the child and the right of the child to be heard in recent revisions to legislation, such as the Act on the status and rights of persons using social welfare services.

Paragraph 48

The State party is invited to continue to take all necessary measures to better reflect in its legislation and its policies the general principles of the Convention, in particular non-discrimination (art. 2), the best interests of the child (art. 3), the right to development (art. 6) and respect for the views of the child (art. 12).

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Paragraph 49

Concern is expressed that municipal authorities do not always take the principle of the best interests of the child into full consideration and, further, that the best interests of unaccompanied child asylum-seekers and refugees are not always a primary consideration.

Paragraph 50

In light of article 3 of the Convention, the State party should consider the full implications of the principle of best interests in the context of the above situations and further efforts should be made to ensure that this principle is a primary consideration in all decisions affecting children.

Paragraph 60

All necessary measures should be taken to ensure that children are placed outside their family only when it is evidently in the best interests of the children and for the shortest period possible.

See also:

- Lithuania, CRC, CRC/C/103 (2001) 47 at para. 283.

- Burundi, CRC, CRC/C/100 (2000) 17 at paras. 113, 114, 131 and 132.

Paragraph 113

Deep concern is expressed that the State party has not given the best interests of the child, as an individual or as a member of a vulnerable group, priority consideration.

Paragraph 114

The principle of the best interests of the child, both as an individual and as a member of a vulnerable group, should be integrated into all future revisions of legislation and given due consideration in the context of administrative and judicial decisions.

Paragraph 131

Deep concern is expressed at the breakdown in nuclear family structures, at the emergence of a high proportion of single-parent-headed households, child-headed households and grandparent-headed households, and at the immediate and long-term consequences that these weaknesses in the family structure may have on children. The strong bias in favour of fathers in the context of child custody disputes is also a concern.

Paragraph 132

Noting the efforts already made in this regard, the State party is encouraged to continue and strengthen support to families, including through assistance with agricultural production and legal and financial assistance in obtaining adequate housing and land and counselling to help resolve problems.

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The State party is urged to give particular attention to the establishment of psycho-social and parental guidance programmes to strengthen vulnerable family units such as single-parent-, child- and grandparent-headed households. It should be ensured that in granting one parent custody of a child, the decision is made in accordance with the best interests of the child, with the child's participation and with consideration for the emotional needs of the child.

- Central African Republic, CRC, CRC/C/100 (2000) 77 at paras. 427 and 428.

Paragraph 427

Concern is expressed that the best interests of children in the State party are not respected. This concern is closely linked to the allocation of insufficient resources for the respect and protection of children's rights.

Paragraph 428

The State party should make additional efforts to ensure that the best interests of children are respected and should increase the allocation of resources in this regard.

- Marshall Islands, CRC, CRC/C/100 (2000) 89 at paras. 509 and 510.

Paragraph 509

Noting that the State party's general approach is more welfare oriented rather than child rights based, concern is expressed that the principles of the best interests of the child (art. 3) and the right to life and development (art. 6) are not fully reflected in the State party's legislation, its administrative and judicial decisions, or its policies and programmes relevant to children. Further, the principle of respect for the privacy of the family, guaranteed by the Constitution and customary practice, may limit interventions within the family which, in accordance with article 9 of the Convention, may be in the best interests of the child.

Paragraph 510

The general principles of the Convention, in particular the provisions of articles 3 and 6, should be appropriately integrated in all revisions to legislation as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children and should guide the determination of policy-making at every level and in particular actions taken by social welfare institutions, courts of law and administrative authorities.

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- Slovakia, CRC, CRC/C/100 (2000) 100 at paras. 560 and 561.

Paragraph 560

The Constitution of Slovakia and other legislation provide adequate protection for the child and his or her family, which ensures the child's well-being. However, the concept of the best interests of the child and consideration for the views of the child are not explicitly included in legislative and administrative measures.

Paragraph 561

Legislation and administrative measures should be reviewed to ensure that articles 3 and 12 of the Convention are duly reflected therein.

- Latvia, CRC, CRC/C/103 (2001) 9 at paras. 48 and 49.

Paragraph 48

It is noted with concern that the principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3) 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.

Paragraph 49

The general principles of the Convention, in particular the provisions of its articles 2, 3 and 12, should be appropriately integrated in all relevant legislation concerning children and applied in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children, including non-citizen children. These should guide the determination of policy-making at every level and actions taken by social and health welfare institutions, courts of law and administrative authorities.

- Liechtenstein, CRC, CRC/C/103 (2001) 19 at paras. 104 and 105.

Paragraph 104

Concern is expressed that two general principles of the Convention, as laid down in articles 3 (best interests of the child) and 12 (respect for the views of the child), are not fully applied and duly integrated into the implementation of the policies and programmes of the State party.

Paragraph 105

Further efforts should be made to ensure the implementation of the principles of the best interests of the child and respect for the views of the child. The general principles should also be reflected in all policies and programmes relating to children. Awareness-raising among the public at large as well

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as educational programmes on the implementation of these principles should be reinforced.

- Lithuania, CRC, CRC/C/103 (2001) 47 at paras. 270 and 271.

Paragraph 270

The principles of non-discrimination (art. 2 of the Convention), best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and political, administrative and judicial decisions, as well as in its policies and programmes relevant to children both at the national and the local level.

Paragraph 271

The State party should continue to strengthen its efforts to integrate the general principles of the Convention, in particular the provisions of articles 2, 3 and 12, in all relevant legislation concerning children, and to apply them in all political, judicial and administrative decisions and in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level as well as actions taken by social welfare institutions, courts of law and administrative authorities.

- Lesotho, CRC, CRC/C/103 (2001) 57 at paras. 337, 338, 345 and 346.

Paragraph 337

Some traditional practices and attitudes can limit implementation of the right of children, especially girls, to express their views and to participate in decision-making processes. Concern is also expressed that the principle of the best interests of the child is not respected and that this situation is worsened by the limited implementation of children's right to be heard.

Paragraph 338

Effective measures should be taken to encourage respect for the views of the child, particularly girls, in schools, families, and the care and judicial systems (including the magistrature). The participatory rights of children should be promoted.

Paragraph 345

The reported increase in family breakdown is noted with concern. This is related to a combination of factors, including HIV/AIDS, household poverty, the retrenchment of migrant workers from South Africa and increasing unemployment. Concern is expressed that the principle of the best interests of children is not respected by families or customary and civil courts in the course of family breakdown and that children in such situations are more likely to be abandoned or forced to live on the streets.

Paragraph 346

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The State party should clarify, strengthen and ensure the implementation of its policies and legislation in relation to family breakdown. The enforcement of maintenance orders should be strengthened and special attention should be paid to providing families in need with adequate support, including training and the empowerment of parents, in order to prevent the abandonment of children.

- Palau, CRC, CRC/C/103 (2001) 79 at paras. 448, 449, 452, 453, 464 and 465.

Paragraph 448

The provisions of the Convention, especially its general principles, have not been fully taken into account, as reflected in articles 2 (non-discrimination), 3 (best interests of the child), 6 (survival and development) and 12 (respect for the views of the child), in its legislation, its administrative and judicial decisions, as well as in its policies and programmes relevant to children.

Paragraph 449

Further efforts should be undertaken to ensure that the Convention, and in particular the general principles, not only guide policy discussion and decision-making, but are also appropriately integrated in all legal amendments, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children.

Paragraph 452

The general principle of the best interests of the child (art. 3) has not been taken fully into account in the State party's legislative, administrative and judicial decisions, as well as in policies and programmes relevant to children. In this regard, it is noted that under customary law, family matters usually reflect "the best interests of all concerned parties" as opposed to "the principle of the best interests of the child."

Paragraph 453

The State party should take all appropriate measures to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions and under customary law, as well as in judicial and administrative decisions and in projects, programmes and services which have an impact on children.

Paragraph 464

It is noted that abortion is illegal except on medical grounds and concern is expressed regarding the best interests of child victims of rape and/or incest in this regard.

Paragraph 465

Legislation concerning abortion should be reviewed with a view to guaranteeing the best interests of child victims of rape and incest.

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- Dominican Republic, CRC, CRC/C/103 (2001) 91 at paras. 505 and 506.

Paragraph 505

The two general principles of the Convention, as laid down in articles 3 (best interests of the child) and 12 (respect of the views of the child), are not fully applied and duly integrated into the implementation of policies and programmes.

Paragraph 506

Further efforts should be made to implement the principles of the “best interests of the child” and “respect for the views of the child”, especially his or her rights to participate in the family, at school, within other institutions and in society in general in order to empower children to their fullest development and dignity. These principles should also be reflected in all policies and programmes relating to children. Awareness raising among the public at large, including community leaders, as well as educational programmes on the implementation of these principles should be reinforced in order to change traditional perceptions of children as objects rather than subjects of rights.

- Denmark, CRC, CRC/C/108 (2001) 10 at paras. 60, 61 and 73.

Paragraph 60

It is of concern that the general principle of the best interests of the child (art. 3) is not fully applied and duly integrated in the implementation of domestic policies and programmes. In this regard, it is noted that the rights of parents are often found to be more important than the best interests of the child.

Paragraph 61

Further efforts should be made to ensure the implementation of the principle of the best interests of the child in laws, policies and programmes for children, as well as in all judicial and administrative decisions concerning children.

Paragraph 73

In light of articles 3, 37, 40 and 39, all effective measures should be taken to ensure that children are separated from adults in detention facilities and that children are not subjected to solitary confinement, unless it is in their best interests and subject to court review.

- Turkey, CRC, CRC/C/108 (2001) 18 at paras. 107 and 108.

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Paragraph 107

It is of concern that the principles of non-discrimination (art. 2), best interests of the child (art. 3) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decision, or in policies and practices relevant to children at both the national and local levels.

Paragraph 108

The general principles of the Convention, in particular the provisions of articles 2, 3, and 12, should be appropriately integrated into all relevant legislation concerning children and applied in all political, judicial and administrative decision, as well as in projects, programmes and services which have an impact on children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health welfare institution, courts of law and administrative authorities.

See also:

- Guatemala, CRC, CRC/C/108 (2001) 47 at paras. 251 and 252.
- Mauritania, CRC, CRC/C/111 (2001) 8 at paras. 50 and 51.

- Democratic Republic of the Congo, CRC, CRC/C/108 (2001) 31 at paras. 191, 192 and 194.

Paragraph 191

It is of concern that fathers are favoured by courts when determining which parent should have the care of children, that financial security is often the only criterion referred to by judges in such decisions, and that the best interests of the child are not a primary consideration.

Paragraph 192

Steps should be taken to guarantee that child custody decisions are made on the basis of the best interests of the child and take due account of a child's views while also ensuring respect for a child's right to maintain contact with parents.

Paragraph 194

All adoptions should comply with international standards and should be conducted in the best interests of the child.

- United Republic of Tanzania, CRC, CRC/C/108 (2001) 71 at paras. 380 and 381

Paragraph 380

CHILDREN'S RIGHTS - BEST INTERESTS

The general principle of the best interests of the child (art. 3) has not been taken fully into account in the State party's legislative, administrative and judicial decisions, as well as in policies and programmes relevant to children.

Paragraph 381

All appropriate measures should be taken to ensure that the general principle of the best interests of the child is appropriately integrated in all legislation, as well as judicial and administrative decisions and in projects, programmes and services which have an impact on children, especially those relating to marriage, custody, maintenance and inheritance rights.