



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD

Thirty-fourth session

SUMMARY RECORD (PARTIAL)* OF THE 893rd MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 16 September 2003, at 3 p.m.

Chairperson: Mr. DOEK

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* No summary record was prepared for the rest of the meeting.

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of San Marino (continued) (CRC/C/8/Add.46; CRC/C/Q/SMR/1; CRC/C/RESP/39; HRI/CORE/1/Add.119)

1. At the invitation of the Chairperson, Ms. Bernardi, Ms. Bigi, Mr. Ferroni, Ms. Gasperoni, Mr. Iwanejko, Ms. Michelotti and Mr. Venturini took places at the Committee table.
2. Ms. BIGI (San Marino) said that San Marino was considering the two optional protocols to the Convention on the Rights of the Child in the light of its legislation. It was hoped that Parliament would soon ratify the two protocols.
3. Mr. VENTURINI (San Marino) said that the objective of the Minor Service, which was established under Law No. 21 in 1977, was to ensure the physical and psychological development of minors and their reinsertion into society. In the area of prevention, the Minor Service focused its efforts on disseminating a culture of childhood: children needed to be protected and supervised, integrated into society and ensured healthy living conditions. In order to accomplish that goal, the Minor Service relied on consultations with minors and their parents, teachers and others.
4. The Minor Service had recently organized a public lecture on developing harmonious parent/child relations. That initiative had enabled parents who had poor relations with their children, and children who felt that their individuality had been ignored, to find answers to their questions or problems.
5. Another function of the Minor Service was to diagnose physical, psychological or academic problems. Such diagnoses were carried out with the help of parents, paediatricians and other qualified persons and enabled the Minor Service to identify children's aptitudes, weaknesses and/or disabilities and determine what type of schooling was most suitable for them. In San Marino, all disabled minors attended regular public school but followed an individualized academic programme, which was often accompanied by some form of therapy or sport.
6. The Minor Service also operated a centre for disabled children that organized day activities for approximately 40 disabled children. Formerly known as Casa Famiglia, the centre had recently changed its name to Colore di Grano. The main objective of the centre was to integrate disabled children into the community. Activities were organized with primary and secondary schools, and some activities were open to the community as a whole.
7. The issue of child abuse was addressed through the dissemination of literature on solidarity. There was a widespread culture of solidarity in San Marino and a well-developed and active network of associations and non-governmental organizations (NGOs), including some dedicated to protecting and caring for minors. In conjunction with the courts, such associations and NGOs had intensified their activities in recent years, and a number of studies had been carried out under the direction of the Minor Service, which was the main organ for dealing with violence and child abuse.

8. There were no cases of abandoned children in San Marino. A large number of families had applied to adopt children.
9. Ms. BERNARDI (San Marino) said that San Marino's legislation contained two provisions concerning adoption: one related to domestic and the other to intercountry adoptions. The age limit for children to be adopted had been raised from 12 to 14, and it was possible to extend that limit in cases where several siblings were to be adopted together. The difference in age between the adoptive parents and the child had been changed to a minimum of 18 years, while the maximum age of the adoptive parents was 45. Both requirements were calculated in respect of the younger of the prospective adoptive parents. Since there were no abandoned children in San Marino, requests for adoption were transferred to Italy and to other European and non-European countries. Legislation concerning intercountry adoption was very rigorous in order to protect minors who were being considered for adoption. The process started with a request for adoption, which was sent to the judicial authorities by the persons wishing to adopt a child. The prospective adoptive parents were referred to the Minor Service for a suitability check, which included psychological testing. If found suitable, they were given the names of various adoption agencies that had been approved by Congress. The consular or diplomatic authority of the country of origin was then required to submit documentation certifying that its adoption requirements had been fulfilled.
10. Mr. VENTURINI (San Marino) said that a period of one year was required in order to determine the suitability of the prospective adoptive parents. Once they had been found suitable, adoptive parents were required to undergo a one-year trial custody period. That requirement could, however, be waived in the case of an intercountry adoption if the authorities of the country of origin had issued a declaration of adoption.
11. Ms. BERNARDI (San Marino) said that there had not yet been a case in which the trial period had ended in failure. Once the trial period had been successfully completed, the judicial authorities could declare the child to be legally adopted. If the trial period was not successful, another adoptive family could be found, subject to the approval of the authorities of the country of origin. As a follow-up measure and to assist adoptive parents, adopted children remained under the supervision of the Minor Service until they reached the age of 18. In order to protect the child's rights, there were provisions in Law No. 49/86, entitled "Reform of Family Law", and in Law No. 83 on intercountry adoptions that prohibited registry officials from disclosing information that might reveal the child's biological father or mother. However, minors themselves could take the necessary steps to trace their biological parents if it was considered necessary for their well-being.
12. The CHAIRPERSON said that he wished to know the approximate number of cases of intercountry adoption in San Marino each year.
13. Mr. VENTURINI (San Marino) said that the authorities received approximately one request for intercountry adoption every 10 days.
14. The CHAIRPERSON said that he was interested in knowing why San Marino had not ratified the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption. It seemed that, by not complying with international standards, San Marino had no clear-cut legislation to guarantee the right of adopted children to information

concerning the identity of their biological parents. He also wished to know whether the pre-adoption custody period was imposed in cases where an application for intercountry adoption had been approved by a competent authority in the child's country of origin.

15. Ms. BERNARDI (San Marino) explained that a pre-adoption custody period was required by law, even if the adoption had been approved in the child's country of origin.

16. Mr. VENTURINI (San Marino) said that a child was placed in the care of his or her prospective adoptive parents before being legally adopted in order to ensure the suitability of the adoption.

17. Ms. BERNARDI (San Marino) said that the use of corrective action was regulated by several provisions of the Penal Code, which stipulated that the abuse of the authority to discipline a child was a punishable offence. Any person found guilty of inflicting permanent psychological or physical damage on a child in his or her care was subject to imprisonment. In less serious cases, parental authority might be withdrawn.

18. The CHAIRPERSON enquired whether the Penal Code specifically prohibited corporal punishment. If so, he wished to know the legal definition of the term "corporal punishment" and whether any efforts had been made to raise public awareness in that regard. If not, he wondered whether the Government intended to take any action to prohibit such punishment.

19. Ms. BERNARDI (San Marino) said that article 243 of the Penal Code stipulated that corporal punishment constituted an abuse of the authority to discipline. All citizens were legally obliged to be aware of the legislation in force.

20. Mr. VENTURINI (San Marino) said that efforts had been made by San Marino authorities to raise awareness of acceptable forms of discipline. Although child abuse was relatively rare in San Marino, the school authorities had on a number of occasions reported cases to the Minor Service. Immediate action had always been taken. San Marino's close-knit social network facilitated the task of detecting child abuse.

21. The Minor Service was the body responsible for monitoring implementation of the Convention and national child-protection policies. One of its tasks was to provide information to teachers, parents and children about child-related issues, such as bullying and sex education.

22. Children were very rarely expelled from school. He could recall only two cases of expulsion in the past 11 years, both of which had involved extremely violent behaviour. The decision to expel a child was the result of a lengthy process involving the child's parents, teachers and the authorities. Any child who felt that he or she had been treated unfairly in such a process could request the Minor Service to intervene.

23. Since San Marino was a small country, it had no schools specifically designed for disabled children. The majority of disabled children attended their local school, regardless of the severity of their disability. The focus was therefore on inclusion rather than on integration. Teachers and school psychologists were responsible for preparing an individualized academic

programme for each disabled child, which included a set of goals tailored to the disabled child's particular needs. Efforts to encourage the child's classmates to become involved in achieving those goals had proved successful.

24. The Colore di Grano institution was the only specialized facility that provided care for disabled persons in San Marino. As the institution was able to provide residential care only for adults, children requiring round-the-clock attention were placed in institutions in Italy.
25. Ms. SARDENBERG enquired whether the authorities were taking any action to implement article 25 of the Convention relating to the periodic review of the treatment provided to children placed in care.
26. Mr. VENTURINI (San Marino) said that a child would be sent to a foreign institution only if, after a thorough investigation of the case, a judge deemed it necessary. In accordance with article 25 of the Convention, children placed in such institutions were closely monitored by experts in order to ensure that the treatment being provided was in their best interest. All children placed in institutions were allowed to receive regular visits from family members. A number of crafts and skills workshops had been set up to facilitate the social reinsertion of disabled persons discharged from such institutions.
27. Recent efforts had been made to encourage children to become more involved in decision-making. Steps had also been taken to introduce non-traditional teaching methods. A recent project that allowed secondary-school children to choose their own activities for a period of one week had proved highly successful.
28. Ms. BERNARDI (San Marino) said that Law No. 139 of 26 November 1997, which supplemented the provisions of the Penal Code, identified the offences related to narcotic drugs, alcoholic beverages, dangerous or harmful substances and psychotropic substances. It introduced severe penalties for anyone administering or selling narcotic drugs to a person under the age of 21 and for any individual working in public service who tolerated the use of harmful substances. Law No. 139 provided that minors under the age of 18 found guilty of such offences could be pardoned if they were able to convince the judge that they would not repeat the offence. The judicial authorities imposed lighter penalties on persons convicted of possessing drugs for personal use, preferring to focus on the recovery and social reintegration of the individuals concerned. All reintegration measures were carried out under the supervision of a social worker or specialist.
29. The CHAIRPERSON said that he would be interested in knowing the minimum age at which a person could purchase alcohol in San Marino.
30. Ms. BERNARDI (San Marino) said that it was a criminal offence in San Marino to sell or distribute alcohol to any person under the age of 18. Furthermore, article 180 of the Penal Code stipulated that anyone found guilty of selling alcohol without a valid licence was subject to a fine.
31. Ms. BERNARDI (San Marino) said that in cases of indecent assault, the consent of a victim under 18 years of age was not a mitigating circumstance, since the minor was assumed to have been in a position of emotional inferiority vis-à-vis the perpetrator.

32. Mr. FERRONI (San Marino) said that, under civil law, the perpetrator could be charged with negligence even if he claimed to have been misinformed of the victim's age.

33. Article 54 of the Family Law provided for the recognition of maternity and paternity of children born out of wedlock. However, the alleged parent could refuse to undergo the medical tests necessary to obtain proof of the child's maternity or paternity. In evaluating the proof provided, the judge would take into account whether the parent had been coerced into taking the medical tests, or had done so of his or her own free will.

34. Although there were no juvenile courts, there was a division headed by a judge that dealt specifically with cases involving children. Case law, particularly in the area of the sexual exploitation of children, compensated for the lack of special legislation relating to minors.

35. Cases involving pregnant minors had to be treated on a case-by-case basis and could not be automatically considered as child abuse. The minor had the possibility to request the judge's authorization to marry.

36. There was no legislation to ensure the confidentiality of personal data. Information on adoption or any other matter was available to the individual concerned. A judge could not prevent an adopted person from gaining access to such information. However, the adoptive parents had no legal obligation to inform the child that he or she had been adopted.

37. Ms. GASPERONI (San Marino) said that, under the 1989 law on placement at work, any citizen or resident 16 years of age or older had the right to apply for work, even if he or she had not yet completed the final year of compulsory education. Another law ensured the protection of minors who were hired as apprentices and received professional training at work.

38. San Marino had ratified International Labour Organization (ILO) Convention No. 138 concerning Minimum Age for Admission to Employment and ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. On 25 October 2002, the career counselling and placement service had adopted a set of regulations defining work that could not be undertaken by minors. For example, children were not permitted to lift heavy goods or be exposed to harmful substances and high temperatures. A number of occupational safety laws had also been adopted.

39. The figures in tables 5 and 6 of the report CRC/C/8/Add.46, pp. 14-18) did not correspond since the legal separations referred to in table 5 took place in the same years as the divorces listed in table 6.

40. In 2002, the birth rate had been 10.37 per 1,000 and the mortality rate had been 7.13 per 1,000. The mortality rate for infants less than one week old, and for infants 1 week to 1 year old was 6.78 per 1,000. In the same year, life expectancy had been 77.9 years for men and 84.5 for women. Additional data was available on request.

41. The Government provided financial assistance to students at all levels of education. Books and materials were supplied by primary and secondary schools free of charge. Primary-and secondary-school children who performed well received an allowance. Students

wishing to attend high schools outside San Marino received an allowance for books and travel expenses. If a high school was located far from San Marino and the student could not return home every day, his or her parents received education grants. Students wishing to undertake postgraduate studies in a field promoted by the State also received grants. Young people over the age of 14 were eligible for working student scholarships, which were awarded to students who wished to take special training courses. Such courses were limited to a period of six months and were designed to allow students to specialize in a given field. All citizens and residents of San Marino were eligible for such benefits.

42. Compulsory schooling began at the age of 6. On completion of compulsory schooling, students could decide to attend high school or to take vocational training courses. Students also had the option to attend complementary classes before making a final decision about their further education.

43. In order to provide children with a global vision, school curricula took into account various religious and cultural traditions. Schools made special provision for children with disabilities with a view to guaranteeing equal opportunities for all. Participatory education was encouraged, and children with disabilities were brought up to play an active role in society. Since the abolition of corporal punishment, alternative forms of punishment had been used to manage difficult relations between teachers and pupils and to provide a framework for children to grow and learn. The school system sought to respond to changes in society, and set ambitious targets for improving efficiency.

44. Mr. FERRONI (San Marino) said that the discrepancy between the number of juvenile offences reported to police and the sole conviction in 2002 arose from the fact that some of the corresponding inquires were still pending.

45. The CHAIRPERSON asked whether all juvenile offences were brought to the attention of a judge or whether any alternative arrangements, such as community service, existed.

46. Mr. VENTURINI (San Marino) said that community service orders could be issued, in which case a supervisor was appointed to monitor the child's progress.

47. A specific education plan was developed for every child diagnosed as having a disability. Social workers provided assistance in integrating disabled persons into the labour market.

48. Ms. BERNARDI (San Marino) said that rehabilitation programmes were designed for children convicted of criminal offences. They were implemented by trained social workers responsible for maintaining contact with the child's family, school and welfare services.

49. Mr. IWANEJKO (San Marino) said that the proportion of breastfeeding mothers had risen from 60 to 90 per cent, largely thanks to public awareness campaigns. In special circumstances, newborn infants were fed glucose solutions until they could be returned to their mothers for breastfeeding. Midwives followed World Health Organization guidelines in such cases.

50. Approximately one quarter of San Marino's children between the ages of 10 and 11 suffered from obesity. Although the Government tried to encourage healthy eating, it was difficult to change San Marino's rich culinary tradition. In many respects, the lifestyle of families was beyond the Government's control, particularly as television and radio broadcasts originated in Italy. According to some research, obesity was also a genetic problem.

51. The CHAIRPERSON said that many positive elements had emerged from the discussion, especially in relation to education and health. However, the persistence of secret adoption was a cause for concern, and the Government should make further efforts to ensure a more rights-based approach to children's affairs.

The discussion covered in the summary record ended at 5.25 p.m.