



Convention on the Rights of the Child

Distr.: General
29 October 2013

Original: English

Committee on the Rights of the Child

Concluding observations on the combined second and third periodic reports of Monaco, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)

1. The Committee considered the consolidated second and third periodic reports of Monaco (CRC/C/MCO/2-3) at its 1838th and 1839th meetings (see CRC/C/SR.1838 and 1839), held on 1 October 2013, and adopted, at its 1845th meeting, held on 4 October 2013, the following concluding observations.

I. Introduction

2. The Committee welcomes the submission of the consolidated second and third periodic reports of the State party (CRC/C/MCO/2-3), though delayed, and the written replies to its list of issues (CRC/C/MCO/Q/2-3/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee welcomes the adoption of the following legislative measures:

- (a) Act No. 1399 of 25 June 2013 on police custody amending certain provisions of the Code of Criminal procedure;
- (b) Act No. 1387 of 19 December 2011 permitting naturalized Monegasque men and women to pass their nationality on to their spouse;
- (c) Act No. 1382 of 20 July 2011, on the prevention and repression of violence;
- (d) Act No. 1359 of 20 April 2009, establishing an antenatal and family support coordination centre;
- (e) Act No. 1343 of 26 December 2007 on justice and liberty amending certain provisions of the Code of Criminal Procedure;
- (f) Act No. 1344 of 26 December 2007, increasing the penalties for indictable offences against children;

- (g) Act No. 1296 of 12 May 2005, permitting mothers to pass on their nationality to their children; Act No. 1276 of 22 December 2003, permitting naturalized Monegasque women to pass their nationality on to their children; and
 - (h) Act No. 1278 of 29 December 2003, amending the Civil Code and establishing:
 - (i) Equal rights between children born in wedlock and those born out of wedlock.
 - (ii) Equal rights and duties of married and unmarried parents in raising their children.
4. The Committee also notes with appreciation the ratification of:
- (a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in 2008;
 - (b) The Convention on the Elimination of All Forms of Discrimination against Women, in 2005;
 - (c) The Convention against Discrimination in Education, in 2012;
 - (d) The European Convention for the Protection of Human Rights and Fundamental Freedoms, in 2005; and
 - (e) The European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, in 2005.
5. The Committee also welcomes the following institutional and policy measures:
- (a) The inauguration of the new Princess Charlene children's home, a shelter for children at risk in 2012;
 - (b) The creation of the Antenatal and Family Support Coordination Centre in 2009; and
 - (c) The appointment of a delegate in charge of persons with disabilities in 2006.

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44 (para. 6) of the Convention)

The Committee's previous recommendations

6. The Committee, while welcoming the State party's efforts to implement the Committee's concluding observations of 2001 on the State party's initial report (CRC/C/15/Add.158), notes with regret that some of the recommendations contained therein have not been fully addressed.

7. **The Committee recommends that the State party take all necessary measures to address those recommendations from the concluding observations on the State party's initial report under the Convention that have not been implemented or sufficiently implemented, in particular with regard to reservations, coordination, a national plan of action and corporal punishment.**

Reservations

8. The Committee notes that the State party has again indicated its intention to withdraw its declaration made upon ratification of the Convention and its willingness to consider withdrawing its reservation (CRC/C/15/Add.158, para. 11). However, the Committee regrets that the State party has maintained its declaration and reservation made upon ratification.

9. The Committee urges the State party to expedite the review of its declaration and reservation with a view to withdrawing them in accordance with the Vienna Declaration and Programme of Action.

Coordination and comprehensive policy and strategy

10. While welcoming the various initiatives undertaken by the State party to guarantee the rights of the child laid down in the Convention, particularly the right to education, the Committee notes with concern the lack of a comprehensive policy on children. Furthermore, while noting the size and special circumstances of the State party, the Committee remains concerned about the absence of a person responsible for the coordination and assessment of the implementation of the Convention.

11. The Committee encourages the State party to develop and implement a comprehensive policy on children and to develop a strategy for its application, providing sufficient human, technical and financial resources. The Committee also recommends that the State party designate a person responsible for the coordination and assessment of all activities related to the implementation of the Convention. The State party should ensure that the person responsible for coordination is provided with the necessary human, technical and financial resources to operate effectively.

Allocation of resources

12. The Committee regrets that it has not been provided with sufficient information by the State party on the resources allocated for the implementation of the Convention. The Committee is also concerned about the absence of a mechanism to assess the impact of budgetary allocations for children.

13. In the light of its day of general discussion on “Resources for the Rights of the Child – Responsibility of States” in 2007 and with emphasis on articles 2, 3, 4 and 6 of the Convention, the Committee recommends that the State party:

(a) Utilize a child-rights approach in drawing up the State budget by implementing a system for tracking the allocation and the use of resources for children throughout the budget, thus making visible the investment on children and allowing impact assessments on how investments in any sector may serve to fulfil children’s rights;

(b) Ensure transparent and participatory budgeting through public dialogue, especially with children and for proper accountability by local authorities; and

(c) Establish mechanisms to monitor, assess and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated for the implementation of the Convention and disseminate information in this regard.

Data collection

14. The Committee notes with appreciation the data provided by the State party on various areas concerning children and the establishment of the Monegasque Institute of

Statistics and Economic Studies. However, it is concerned that the system of data collection does not cover all areas of the Convention, and that there are not sufficient mechanisms for processing and assessing such data.

15. **The Committee encourages the State party to develop a comprehensive system for collecting, processing and analysing data as a basis for assessing progress achieved in the realization of child rights. The data should cover all areas of the Convention and be disaggregated by age, sex, national origin and socioeconomic background to facilitate analysis of the situation of all children.**

Independent monitoring

16. While welcoming the appointment of the adviser responsible for appeals and mediation, the Committee is concerned that this institution is not in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

17. **Taking into account the Committee's general comment No. 2 (2002) on the role of independent human rights institutions in the protection and promotion of the rights of the child, the Committee recommends that the State party expand the functions of the adviser responsible for appeals and mediation, providing it with the mandate to monitor human rights, including by creating a specific mechanism for monitoring children's rights that is able to receive, investigate and address complaints by children in a child-sensitive manner while ensuring the privacy and protection of victims, and undertake monitoring, follow-up and verification activities. Furthermore, the Committee recommends that the State party ensure the independence of that institution, including with regard to its mandate and immunities, to ensure full compliance with the Paris Principles.**

Dissemination, awareness-raising and training

18. While noting the efforts to disseminate the Convention and raise public awareness on the principles and provisions of the Convention, the Committee is concerned that awareness of the Convention remains limited among children and the public at large. The Committee is also concerned that human rights education for children at school and training activities for professional groups on children's rights are not systematic.

19. **The Committee recommends that the State party increase awareness-raising programmes, including child-friendly campaigns, on the Convention. The Committee also recommends that the State party undertake systematic and continuous 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.**

Child rights and the business sector

20. The Committee notes that it is possible in the State party to file criminal complaints against business enterprises that do not ensure child-rights due diligence in their supply chain. However, the Committee is concerned that the State party's legislation does not explicitly state the obligations of companies acting under the State party's jurisdiction or control to respect the rights of the child in operations carried out outside of the State party's territory and that legislation does not provide for accessible procedural safeguards in the case of such violations.

21. **The Committee draws the State party's attention to its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's**

rights and recommends that the State party establish and implement regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to the rights of the child. The Committee recommends that the State party give special attention to the requirement of enterprises to undertake child-rights due diligence in their chain of suppliers and customers, including outside of the territory of the State party. It also recommends that the State party establish effective and accessible procedural safeguards against business enterprises implicated in violations of children's rights.

B. General principles (arts. 2, 3, 6 and 12 of the Convention)

Non-discrimination

22. While the Committee welcomes the adoption of Act No. 1387 of 19 December 2011 permitting naturalized Monegasque men and women to pass their nationality on to their spouse, it remains concerned about the restriction that prevents naturalized women from transmitting Monegasque nationality to their children in the event of a divorce (see CRC/C/15/Add.158, para. 21).

23. **The Committee urges the State party to pursue its efforts to adopt legislation establishing the same right for men and women to pass on Monegasque nationality to their children, regardless of the manner in which nationality was acquired.**

Best interests of the child

24. The Committee notes that the concept of the best interest of the child underpins the State party's legal framework in respect of children's rights. However, the Committee regrets that the State party's legislation contains neither the elements to be taken into account when assessing the child's best interests, nor the procedural safeguards to guarantee its implementation.

25. **The Committee draws the State party's attention to its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration and recommends that the State party strengthen its efforts to ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings, and in all policies, programmes and projects relevant to and with an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area, and to disseminate these to the public, including public and private social welfare institutions, courts of law, administrative authorities and legislative bodies.**

Respect for the views of the child

26. The Committee welcomes the fact that the new Act No. 1382 of 20 July 2011 has consolidated children's involvement in judicial and administrative procedures. However, it regrets that there is insufficient clarity with regard to the right of children to be heard in other contexts.

27. **In view of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party continues to promote and facilitate, within the family, schools and institutions, and in judicial and administrative procedures, respect for the views of children and their participation in all matters affecting them. Children should be heard in a child-friendly manner, taking into account the principle of the best interests of the child. The views of children, including children with disabilities, should be given due weight in**

accordance with the age and maturity of the child. The Committee further encourages the State party to provide educational information to parents, teachers and headteachers, government administrative officials, the judiciary, children themselves and society at large, with a view to creating an encouraging atmosphere in which children can freely express their views.

C. Violence against children (articles 19, 37 (a) and 39 of the Convention)

Corporal punishment

28. Despite the fact that the State party's criminal law provisions prohibit different forms of violence against children, the Committee regrets that the State party continues to lack legislation explicitly prohibiting corporal punishment in all settings, including the home, institutions and all alternative care settings, as previously recommended by the Committee (CRC/C/15/Add.158, para. 27).

29. **The Committee urges the State party to introduce provisions expressly prohibiting corporal punishment in all settings, and to strengthen its efforts to promote positive, non-violent and participatory forms of child-rearing and discipline.**

Abuse and neglect

30. The Committee notes with interest the adoption of the Act No. 1382 of 20 July 2011 to strengthen the protection of women, children and persons with disabilities. The Committee welcomes the State party's initiative to conduct training on violence against children for persons who are in direct contact with victims of violence, including judges, health professionals, social workers and officers and officials of the criminal investigation service.

31. **The Committee encourages the State party to undertake more extensive training and other types of sensitization programmes on violence against children to all professions, including law enforcement agencies on different forms of violence against children.**

Sexual exploitation

32. The Committee is concerned at reports of cases of sexual abuse and child pornography on the Internet. The Committee regrets the absence of a study on sexual abuse and sexual harassment of children via digital media (the Internet).

33. **The Committee recommends that the State party:**

(a) **Strengthen the capacity of the police and relevant personnel to receive complaints and investigate cases of sexual exploitation in a child-sensitive manner, inter alia, by providing appropriate training;**

(b) **Study the extent of the sexual abuse and sexual harassment in the digital media, especially on the Internet and strengthen its modalities to detect and punish perpetrators;**

(c) **Allocate adequate resources and enhance government action and coordination in order to combat sexual exploitation of children, especially on the Internet; and**

(d) **Ensure that programmes and policies for the prevention, recovery and reintegration of child victims are in accordance with the outcome documents adopted at the 1996, 2001 and 2008 World Congresses against Commercial Sexual Exploitation of Children held in Stockholm, Yokohama and Rio de Janeiro, respectively.**

Freedom of the child from all forms of violence

34. Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of violence against children. The Committee further recommends that the State party take into account its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and in particular:

(a) Develop a comprehensive national strategy to prevent and address all forms of violence against children;

(b) Adopt a national coordinating framework to address all forms of violence against children;

(c) Pay particular attention to and address the gender dimension of violence;

(d) 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; and

(e) Cooperate with the Special Representative of the Secretary-General on Violence against Children and other relevant United Nations institutions.

Helplines

35. The Committee notes with regret the lack of a child helpline, which can be a critical tool for children to seek assistance and lodge complaints and for the competent authorities to monitor the situation of children and protect them from violations of their rights.

36. The Committee recommends that the State party establish a three digit toll-free 24-hour helpline available for all children at the national level and promote awareness of how children can access the helpline. The State party should allocate sufficient human, technical and financial resources to ensure the quality of the services provided by the helpline.

D. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1–3) of the Convention)

Health and health services

37. The Committee is concerned that domestic legislation and practice still do not guarantee free medical assistance to foreign children residing in the State party for fewer than five years, as recommended by the Committee in its previous recommendations (CRC/C/15/Add.158, para. 35).

38. The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health and recommends that the State party undertake all necessary measures, including legislative measures, to ensure that all children, including non-nationals, enjoy the same access and quality of health services.

Adolescent health

39. The Committee notes as positive the efforts undertaken by the State party to prevent sexually transmitted diseases and HIV/AIDS and the establishment of the Antenatal and Family Support Coordination Centre. However the Committee is concerned that sexual and

reproductive health education for adolescents, especially in schools, is not systematic. The Committee is also concerned at the lack of adequate data on teenage pregnancy in the State party.

40. **In view of its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, the Committee recommends that the State party:**

(a) Strengthen sexual and reproductive health education and services for adolescents, especially in schools, with a view to reducing the incidence of teenage pregnancies and to provide teenage girls with the necessary assistance and access to health care and education;

(b) Develop and implement a policy which addresses the issues faced by adolescent mothers and protects them and their children from discrimination and violation of their rights; and, in so doing, pay particular attention to ensuring that pregnant adolescents and adolescent mothers are supported and assisted in continuing their education;

(c) Ensure by law and in practice that the views of the pregnant adolescents are always heard and respected in abortion decisions;

(d) Take effective measures to collect adequate statistical data on teenage pregnancy; and

(e) Undertake studies to assess the causes of early pregnancy and develop a comprehensive plan of action based on this study with a view to reducing the incidence of teenage pregnancies.

Drug and substance abuse

41. The Committee is deeply concerned at the increasing rate of substance abuse and addiction among adolescents and notes the difficulties confronted by the State party in dealing with this phenomenon.

42. **The Committee recommends that the State party strengthen its measures to prevent drug, alcohol and tobacco abuse among adolescents by the way of education on life skills, and engage the mass media to ensure the promotion of healthy lifestyles by children and adolescents. The State party should also provide rehabilitation, reintegration and recovery programmes specifically designed for child victims of drugs and substance abuse.**

E. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)

43. The Committee notes with appreciation the efforts of the State party in the sphere of education, in particular measures undertaken to integrate foreign children into national schools. However, the Committee is concerned that domestic legislation does not expressly guarantee free education to children of foreign nationalities whose parents or legal representatives are neither resident nor lawfully established in the State party.

44. **Taking into account its general comment No. 1 (2001) on the aims of education, the Committee recommends that the State party consider all possible measures through which foreign children can be granted equal access to the same standard of education services in the field of education.**

F. Other special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)–(d), 32–36 of the Convention)

Follow up to the Committee’s previous concluding observations and recommendations on the Optional Protocol on the involvement of children in armed conflict

45. While noting that the State party has established extraterritorial jurisdiction for cruel treatment and torture, mutilation, organ trafficking, rape and other forms of sexual violence, the Committee is concerned that there are no legal provisions that explicitly provide for extraterritorial jurisdiction for offences under the Optional Protocol on the involvement of children in armed conflict, as recommended in its previous recommendations (CRC/C/OPAC/MCO/CO/1, para. 9).

46. The Committee recommends that the State party take all the measures necessary to ensure that domestic legislation explicitly enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol, including the recruitment and use in hostilities of children under the age of 18. Furthermore, the Committee recommends that the State party proceed to ratifying the Rome Statute of the International Criminal Court, which the State party signed on 18 July 1998.

Administration of juvenile justice

47. The Committee notes the efforts undertaken by the State party to bring its justice system into line with the Convention. However, the Committee is concerned that:

(a) The minimum age of criminal responsibility continues to be 13 years of age in the State party;

(b) The new Act No. 1399 of 25 June 2013, modifying the Code of Criminal Procedure, provides for the possibility for a child under 13 years of age to be placed in preventive detention (*garde à vue*) for the needs of investigation if there are reasonable grounds to suspect that she/he has committed or attempted to commit a crime or an offence punishable by at least five years’ imprisonment;

(c) Lawyers providing legal assistance to children in conflict with the law do not receive systematic training on children’s rights; and

(d) Discipline measures applied to children deprived of liberty from 16 to 18 years old are not in compliance with the Convention.

48. The Committee urges the State party to bring its juvenile justice system fully in line with the Convention, in particular articles 37, 39 and 40, and with other relevant standards, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (the Havana Rules), the Guidelines for Action on Children in the Criminal Justice System and the Committee’s general comment No. 10 (2007) on children’s rights in juvenile justice. In particular, the Committee urges the State party to:

(a) Consider the possibility of raising the age of criminal responsibility;

(b) Consider repealing the recent amendment to the Penal Procedure Code which allows children of under 13 years of age to be placed in police custody for the needs of investigation; and

(c) Promote alternative measures to the justice system, such as diversion, probation, mediation, counselling, or community service, wherever possible and ensure that detention is a measure of last resort and for the shortest possible period of time;

(d) Ensure the provision of qualified and specialized legal aid to children in conflict with the law at an early stage of procedure and throughout the legal proceedings; and

(e) Ensure that court judges, lawyers, police officers and social assistants receive appropriate and systematic education and training on juvenile justice.

G. Ratification of international human rights instruments

49. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, in particular the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Convention on the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.

50. The Committee urges the State party to fulfil its reporting obligations under the Optional Protocol on the sale of children, child prostitution and child pornography, the report under which has been overdue since 24 October 2008.

H. Cooperation with regional and international bodies

51. The Committee recommends that the State party cooperate with the Council of Europe for the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.

I. Follow-up and dissemination

52. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, inter alia, transmitting them to the Head of State, Parliament, relevant ministries, the Supreme Court and local authorities for appropriate consideration and further action.

53. The Committee further recommends that the combined second and third periodic reports and written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and the Optional Protocols thereto and of their implementation and monitoring.

J. Next report

54. The Committee invites the State party to submit its combined fourth to sixth periodic report by 20 January 2019 and to include in it information on the implementation of the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports

should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In accordance with General Assembly resolution 67/167 of 20 December 2012, in the event a report exceeding the page limitations is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.

55. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I).
