



**Convention on the
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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-second session

SUMMARY RECORD OF THE 1127th MEETING (Chamber B)

Held at the Palais Wilson, Geneva,
on Tuesday, 16 May 2006, at 3 p.m.

Chairperson: Ms. KHATTAB

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The meeting was called to order at 3.05 p.m.

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

Initial report of Italy under the Optional Protocol on the involvement of children in armed conflict (continued) (CRC/C/OPAC/ITA/1, CRC/C/OPAC/ITA/Q/1)

Initial report of Italy under the Optional Protocol on the sale of children, child prostitution and child pornography (continued) (CRC/C/OPSA/ITA/1, CRC/C/OPSA/ITA/Q/1 and Add.1)

1. At the invitation of the Chairperson, Ms. Bianchi, Ms. Carletti, Ms. Ciampa, Mr. Citarella, Ms. Furia, Ms. Giofrè, Ms. Grassi, Ms. Pain and Mr. Piermarini (Italy) resumed places at the Committee table.
2. Ms. PAIN (Italy), replying to a question concerning the dissemination of information on the Convention and the Committee's concluding observations, said that as a result of agreements reached during meetings held in 2005 and 2006 between the Ministry of Foreign Affairs and a number of non-governmental organizations (NGOs), the Italian Government had undertaken to provide information annually to the Italian Parliament and to provide it with an Italian version of the Committee's concluding observations. The Committee's observations and recommendations were followed up by the Inter-Ministerial Committee on Human Rights (CIDU), which had a special procedure for following up on the concluding observations of all the treaty bodies, and were taken into account in the national plan of action on childhood and adolescence produced by the Ministry of Labour and Social Policies. The delegation would soon submit written replies on Italy's activities in the field of international cooperation, with updated information on all Ministry of Foreign Affairs projects.
3. Mr. PIERMARINI (Italy), addressing questions raised at the previous meeting on Italy's efforts to give effect to the Optional Protocol on the involvement of children in armed conflict, pointed out that articles 7 to 10 of the Italian Penal Code stipulated that crimes committed abroad, whether by Italian citizens or foreign nationals, were subject to prosecution, and set out the conditions for such prosecution. Italian troops based in other countries provided assistance to child victims of crimes in accordance with international humanitarian law, including the Convention on the Rights of the Child and its optional protocols. Article 10 of the Penal Code established that if a crime was committed in a foreign country or against a foreigner, the responsible party could be punished under Italian law, provided that the person was in Italian territory. The Penal Code also stipulated that Italian citizens who committed crimes against foreigners, or foreign nationals who committed such crimes against Italian troops or civilians, were subject to prosecution in Italy. The Italian Joint Operational Command, which was responsible for Italian troops deployed in other countries, had issued specific orders for Italian soldiers to report any crimes listed in article 5 of the Rome Statute of the International Criminal Court to the military prosecutor in Italy, even if the perpetrator of the crimes had not been identified. The International Criminal Court was also to be informed of any such crimes.
4. Mr. CITARELLA (Italy) added that Italian officers on assignment abroad were of course also under an obligation to refer such cases to the local authorities and justice system.

5. Ms. GRASSI (Italy), turning to the Committee's questions about the implementation of the Optional Protocol on the sale of children, child prostitution and child pornography, addressed the question of definitions. The Italian State had taken a firm stance on prostitution, pornography and the sale of children for sexual acts and violence. In the relevant legislation, including Act No. 269 of 1998 and Act No. 38 of 2006, the language was restricted to the use of the terms "prostitution" and "pornography", but the term "paedophilia" did not appear. The concepts of the sale and trafficking of children were clearly defined, in particular in articles 2 and 3 of Act No. 228. Prostitution was given an identical definition in Act No. 269 and in Act No. 38, and its definition was in line with the one contained in the Optional Protocol. The decision had been made to avoid a specific definition of pornography, as that phenomenon was constantly evolving, and the legislature and those promoting the adoption of effective laws had considered it preferable to leave a margin for manoeuvre. In the Acts of 1998 and 2006, the concept was therefore set out in looser terms than other concepts.
6. Ms. GIOFFRÈ (Italy), addressing a question relating to jurisdiction and extradition, explained that the Ministry of Justice was empowered to request the extradition to Italy of accused persons either before or after their sentencing in another country. The specific conditions were established jointly by the Ministry and the authorities of the country concerned. The Ministry was also able to request that another country search or detain an accused person. Once in Italy, the subject of an extradition order could not be arrested for another offence without the agreement of the extraditing country.
7. Mr. CITARELLA (Italy) added that Italy had also entered into bilateral extradition agreements with a large number of States, and that such agreements were sometimes quite precise in respect of the applicable conditions.
8. Ms. VUCKOVIC-SAHOVIC said that the Committee's principal concern was to ensure that no one who committed offences covered by the Optional Protocol should be able to do so with impunity. That was the reason for the requirement in the Optional Protocol that such offences should be extraditable in all possible scenarios. She asked whether there were provisions for extradition to Italy not only of Italian citizens, but also of foreign nationals, and also whether provisions existed for the extradition of both Italians and foreigners from Italy to other countries. She would also be interested to find out whether Italian courts could deal with the cases of foreign nationals accused of the offences covered by the Optional Protocol.
9. Mr. CITARELLA (Italy) said that the general principle in Italian legislation, and in fact in many treaties, was that the defendant must be prosecuted in the country where the offence took place or, failing that, must be extradited from that country. In most cases, the decision to prosecute in Italy would be based on the fact that either the victim or the perpetrator was an Italian.
10. Mr. FILALI asked whether in practice there had been any cases in which the Italian Government had extradited persons to other countries, in particular outside of Europe.
11. Mr. CITARELLA (Italy) said that to the best of his knowledge, there had been no cases in which other countries had requested the extradition of a foreign national from Italy for an offence covered by the Optional Protocol. On the other hand, there had been a large number of cases in which the Italian Government had requested the extradition to Italy of Italian citizens,

for example following crimes involving sexual abuse or sex tourism. In such cases the Italian judicial authorities requested legal assistance, witnesses and documentation in order to prosecute, but, in practice, most countries where such offences occurred refused to assist in such prosecutions.

12. Ms. GIOFFRÈ (Italy) noted that the requirement of dual criminal liability did not exist in the Italian legal system. Extradited persons accused of crimes covered by the Optional Protocol could be tried in Italy only if the offence in question did not exist in the other country's legal system, or if it existed in another form. Italians and foreigners who were established in Italy were liable to prosecution for crimes covered by the Optional Protocol in such cases.

13. Ms. CIAMPA (Italy) said that the most recent national plan of action for the protection of rights and development of children had been drawn up in 2002 and had covered the period from 2002 to 2004. The Government was currently working with the National Observatory for Childhood and Adolescence, NGOs, children's groups, employers, unions and representatives of municipal and provincial authorities, together with the 20 regional administrations, to draw up a new plan of action. The new plan would take into account the concluding observations issued by the Committee in 2003, and was expected to be finalized within about two months. Work on the plan had been slowed owing to the recent constitutional reform, which had placed the bulk of social policy under the exclusive competence of the 20 regions, and more recently because of the national elections; no national plan of action had therefore been in effect for some time.

14. The National Fund for Social Policies had provided funding for the last national plan of action, specifically under the National Fund for Childhood set up pursuant to Act No. 285 of 1997. That law had established funding for local projects, with the very active participation of NGOs and civil society. Other resources had been provided for the national plan of action by the municipalities and the regions.

15. Ms. BIANCHI (Italy) said that the information gathered through the monitoring of the first national plan of action had served as a basis for the new plan. Many of the government activities and policies under the plan were subject to constant monitoring because they took place in the context of the National Fund for Social Policies or of specific laws, such as Act No. 285, or Act No. 269 on sexual exploitation. Monitoring was carried out by all central administrative bodies and the national observatories. Efforts to combat the sexual exploitation of children were based on the need for an overall political commitment to the development of the entire community and the recognition that an effective policy must not be centred on the handling of emergencies alone. The Ministry of Labour and Social Policies therefore ensured that efforts to prevent any kind of violence against children were included in the local funding coordination plans that it adopted with the municipalities every two years.

16. The last national plan of action had been reviewed in early 2006, and as a result a number of strengths and weaknesses had been identified. Its achievements included the promotion of a national information system to centralize information on regional and local services for minors, including for abused, exploited or trafficked children, and the establishment of a pilot programme to draw up a national register of all children who were reported to be at risk. In addition, for the first time, research had been carried out at the national level on the effects on children of witnessing violence, sexual abuse and physical and psychological mistreatment. Other research focused on the recovery and reintegration of children who had been subjected to

trafficking and prostitution in Italy. One of the principal aims of that research, which had been undertaken in response to a recommendation issued by the Committee, was to provide advice to help local and central authorities to find the most effective means of providing protection and services for such children.

17. Ms. VUCKOVIC-SAHOVIC asked whether the regions and municipalities were encouraged to implement their own plans of action, and if so, whether they developed a new plan or simply imported the national plan of action.

18. Mr. LIWSKI asked whether funding for the plan of action was provided in a decentralized manner to reach the municipalities. If so, he wondered whether there were any mechanisms to guarantee the effective use of funding.

19. Ms. BIANCHI (Italy) said that there were two levels of funding transfer. Firstly, the Ministry of Labour and Social Policies, with the agreement of the regions, allocated funding to each region, which in turn was responsible for the allocation of funding to the municipalities. Each region and municipality received an amount based on its proposals for projects aimed at children. A national database was managed by the National Centre for the Documentation and Analysis of Childhood and Adolescence, with the collaboration of all the regions, and provided an overview of the situation at the local level to ensure the effective implementation of projects. The Ministry of Labour and Social Policies, in collaboration with the centre, had prepared two sets of guidelines to assist social services, NGOs and other relevant institutions in developing worthwhile projects and receiving funding. The national plan of action on childhood and adolescence was the mechanism agreed upon at the central and regional levels to implement the Convention on the Rights of the Child and its optional protocols, although each region could choose the way in which it implemented the plan of action.

20. The CHAIRPERSON asked whether it was obligatory for all regions to apply the guidelines, and what happened if a region did not implement the national plan of action.

21. Ms. BIANCHI (Italy) said that, under the 2001 constitutional reform, the regions had exclusive competence for social policy, while the central authorities were responsible for coordination and ensuring a minimum standard of social services throughout the country. The minimum standard for health services had been agreed upon, and the Government was now working on drafting the minimum standard for social services. Once a law defining the minimum standard had been enacted, the State would be able to exercise the “power of substitution”, whereby if a region failed to carry out an obligatory requirement, the State could intervene.

22. Mr. CITARELLA (Italy) said that the Postal and Communications Police was a specialized body which monitored Internet sites to ensure they complied with rules on the protection of minors. Some 250,000 websites had been checked, of which more than 100,000 had been closed down.

23. Ms. GRASSI (Italy) said that cartoons with pornographic content were considered pornography, not virtual pornography. Virtual pornography was defined under Act No. 38/2006 as images created using graphic design techniques, which were not associated, in whole or in part, with real situations, but whose quality of representation made unreal situations appear real.

The Postal and Communications Police carried out investigations in collaboration with other Italian police forces and those in other countries. By working undercover, police officers were able to enter into the file-sharing networks used to disseminate child pornographic material. The police initially monitored users who exchanged large quantities of such material and then concentrated on the content of the material. The National Centre for Combating Child Pornography on the Internet had been established under the Ministry of the Interior, and was tasked with collecting information from all public and private sources involved in action to combat child pornography. Under Act No. 38/2006, Internet service-providers were obliged to provide the centre with information concerning companies or individuals which disseminated or sold child pornographic material. Service-providers must use filters which would be defined by the Ministry of Communications and the Ministry for Innovation and Technologies. There were plans to involve banks, e-commerce institutions and financial intermediaries in the collection of the personal details disclosed when making credit card payments for illegal transactions.

24. The Minister for Equal Opportunities had established an observatory to coordinate information sources on the exploitation and sexual abuse of minors, as well as adapting existing information systems in order to facilitate interaction between the relevant bodies. A database was to be established, and the observatory would analyse the data and develop strategies to identify areas in which action could be taken to prevent the sexual abuse of minors and to find and support both the victims and the perpetrators of such abuse.

25. Ms. BIANCHI (Italy) said that there were a number of projects under way to create the necessary conditions for the repatriation of youngsters who had arrived from the Balkans and Albania. One project concerned the assisted repatriation and reintegration of girls who had been victims of trafficking, and was managed by the Department for Civil Liberties and Immigration on behalf of the Ministry of the Interior and the International Organization for Migration (IOM). Trafficking prevention campaigns had been conducted in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, Moldova, Romania and Ukraine. IOM had developed a programme to regularly follow up the situation of persons who had been repatriated, which showed that there was an 80 per cent reintegration rate and none of the repatriated persons had returned to Italy. Since many children became victims of trafficking after fleeing difficult family conditions, such as domestic violence and sexual abuse, the provision of support to the repatriated child and the whole family was crucial to the success of the project. Such support was organized by IOM and local associations.

26. Mr. ZERMATTEN asked whether there were any particular programmes aimed at finding a solution to the problem of unaccompanied Roma minors, such as bilateral cooperation programmes with Romania.

27. Ms. BIANCHI (Italy) said that a project had been developed to provide assistance to unaccompanied minors. There were two types of child immigrants who came to Italy from Romania: unaccompanied minors and girls trafficked by Albanian criminal groups. The methods established to assist child victims of trafficking had already proven effective, and progress in that regard was constantly monitored.

28. Ms. CIAMPA (Italy) said that a centre had been established in Rome in 2003 to combat begging by Roma children. The centre was part of a pilot project that aimed to take children off the street into a calm, friendly atmosphere and to provide them with support from social workers

while efforts were made to trace their parents. There was a linguistic and cultural mediator present to assist the children. The project included cooperation with law enforcement bodies and municipal authorities, which had the power to take to the centre any street children who were either alone or with adults who could not prove that they were the child's parents. Efforts were also being made to raise awareness of the legislation in force in Italy to protect children against begging, and to investigate the needs of families that were found begging, in order to assist them effectively. A team of paediatricians was also active in the project, which was supported by the United Nations Children's Fund (UNICEF).

29. Ms. VUCKOVIC-SAHOVIC asked whether the Government planned to take any measures to investigate the original situation in the home country of children who were victims of trafficking, before it took the decision to repatriate them, and if so, what those measures would be.

30. Mr. ZERMATTEN wondered whether child victims of trafficking were asked whether they wished to be repatriated.

The meeting was suspended at 4.20 p.m. and resumed at 4.50 p.m.

31. Ms. CIAMPA (Italy) said that all foreign children resident in Italy, including illegal immigrants, were guaranteed the right to health care and education. Children under the age of 18 could not be expelled from Italy. Unaccompanied foreign children who were registered with the Italian authorities were granted the right to stay in Italy while investigations took place into their family situations in their native countries. The Committee for Foreign Minors had set standards for the reception of unaccompanied foreign children and for the establishment of connections with countries of origin. That Committee also took steps to identify such children, establish links with their families and investigate their family situations. Legislation on the reception of unaccompanied foreign minors provided that when unaccompanied children who had been resident in Italy for a minimum of three years reached the age of majority they would be granted a permit for study or work, which would enable them to remain in Italy should they so wish.

32. Ms. GRASSI (Italy) said that in the event that the return of women and children to their country of origin constituted a real threat to their safety, they were granted residence permits. A series of welfare projects were being implemented to provide assistance to all foreigners in Italy, including children, who had been victims of violence, trafficking or any type of exploitation. Moreover, measures had been taken to coordinate police investigations with efforts in the field of social welfare. The Rome city police had been informed of unusual movements of Italian adults and Romanian and Roma children. A large-scale investigation had been opened, as a result of which a network of Italian criminals had been uncovered. They were found to have been trafficking in children aged between 8 and 16 for the purposes of prostitution, with the consent of the children's parents. As a result of the inquiry, the Italian police had also arrested a well-known Romanian football coach, and a search of his private property had revealed a large amount of child pornography. Cases had been uncovered of abuse committed against approximately 200 minors, the majority of whom were Roma. Further search warrants had been issued to investigate a number of suspects in the criminal network, and statements given by the victims had been used as evidence in the inquiry. The victims had been taken into care and given psychological support. Further investigations were taking place into trafficking in children for exploitation and small-scale criminal activities.

33. Mr. LIWSKI noted that the legislation on the National Fund for Social Policies did not provide for a set percentage of the budget to be invested in the protection of child victims of trafficking, sexual exploitation and organized crime. He wished to know how the equitable distribution of the Fund was guaranteed, and what measures were being taken to rectify the problem of the lack of financial resources in poor municipalities. The structure of the Fund should be adjusted, if necessary, to ensure equitable distribution. He asked whether the Government planned to establish a mechanism to ensure that repatriation was not detrimental to children's well-being.

34. Mr. CITARELLA (Italy) said that according to Italian practice and legislation, any repatriation order had to be confirmed by the judicial authorities.

35. Ms. CIAMPA (Italy) said that the criteria for the distribution of funds from the National Fund for Social Policies had been set at a meeting between the Ministry of Labour and Social Policies, the Ministry of Finance and regional administrations. The criteria were objective, and based on the principle that regions with fewer services received larger allocations, which therefore ensured that the funds were distributed equitably.

36. Mr. ZERMATTEN asked whether Italy had ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. He wished to know what measures were taken to ensure that child victims and witnesses of crimes were protected during legal proceedings and whether the Government intended to incorporate the guidelines on justice for child victims and witnesses of crime drawn up by the International Bureau for Children's Rights into its Code of Criminal Procedure.

37. Ms. BIANCHI (Italy) said that Italian law provided for so-called "protected hearings" for child victims of sexual abuse, sexual exploitation and trafficking. The Code of Criminal Procedure also provided for a mechanism called the "interlocutory witness examination", which could be used in criminal proceedings to take evidence from children under the age of 16 in cases involving sexual violence, sexual acts with an under-age person, corruption of an under-age person or group sexual violence. The interlocutory witness examination could be requested by the attorney representing the victim or the accused. It had recently also been used in cases involving the offences of child prostitution, child pornography and tourism for the purpose of exploiting child prostitution. The mechanism was innovative in that it could be introduced merely because the witness was a child, no other conditions being necessary.

38. Italian law also stipulated that the examination of a child during hearings must be conducted by the presiding judge, with a member of the family or an expert in child psychology in attendance if need be. In addition, the judge could examine the child behind closed doors, in which case the proceedings could not be filmed or taped, and the witness's personal information could not be published until he or she came of age. Where the alleged crime involved sexual violence or under-age prostitution, the proceedings were always held behind closed doors when the injured party was a minor. New legislation also attempted to formalize the protection of victims of sexual offences, especially by providing rules for taking evidence from children under 16. The protected hearing had been introduced to avoid further traumatizing the child

victim. In cases involving sexual offences, judges were able to conduct hearings in places other than the courtroom, such as in the home or in a special centre; in cases involving children under 16, the judge could establish the place, time and method of the proceedings.

39. The CHAIRPERSON said that it was clear that Italy was following the United Nations guidelines on justice for child victims and witnesses of crime; she invited all States parties to follow those guidelines, and encouraged Italy to continue to do so.

40. Mr. FILALI said it would be useful to know whether the judge in question was specialized in cases involving minors.

41. Ms. BIANCHI (Italy) said that criminal judges were responsible for prosecuting crimes. There was, however, a special team for dealing with cases in which children were either the victims or the perpetrators of crimes, as well as a number of specialized judges. Protected hearings were also used in proceedings in which children were either authors or victims.

42. Ms. GRASSI (Italy) said, with regard to the matter of sex tourism, that a new Italian law required tour operators to include in all their publicity materials, travel documents and catalogues, for every destination that they serviced, a notice stating that child prostitution and child pornography were punishable crimes even when practised abroad.

43. There were a number of Italian institutions addressing the situation of children, each with its own special field of interest. The National Observatory for Childhood and Adolescence dealt with all topics related to children, not solely abuse and prostitution. The “Ciclope” Committee had been set up in 2002 within the Ministry for Equal Opportunities to combat paedophilia. The Office of the President of the Council of Ministers was responsible for coordinating activities by government bodies involved in prevention and assistance, including legal matters and the protection of minors against exploitation and sexual abuse, and had delegated that responsibility to the Minister for Equal Opportunities, who chaired the Ciclope Committee. The Ciclope Committee met to make policy decisions, and had championed recent legislation, including the creation of the National Observatory for Childhood and Adolescence and the collection of data. Although the Ciclope Committee and the National Observatory were separate entities, they cooperated closely.

44. Ms. CIAMPA (Italy) said there were very few cases of intercountry adoption in Italy. Nevertheless, the Commission for Intercountry Adoption had been created in 1998 to ensure that foreign adoption complied with the principles of the Convention on Protection of Children and Cooperation in respect of Intercountry Adoption, and was responsible for cooperation with the central authorities of other States, the authorization and monitoring of adoption agencies in Italy, the maintenance of a public register of accredited agencies, the equitable distribution of such agencies throughout the national territory, the promotion of cooperation between organizations involved in the adoption and protection of children, and the collection of data. It was also entrusted with ensuring that adoptions were in the best interests of the child.

45. Mr. CITARELLA (Italy) said it was also worth mentioning that Italy had just ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

46. The CHAIRPERSON said that efforts by the Italian Government in the area of cooperation with civil society had produced good results. The State party should continue its efforts to implement the Optional Protocol, in particular by coordinating national activities, ensuring that available resources reached all parts of the country and generally increasing its services to child victims.

47. Mr. ZERMATTEN commended Italy for sending a high-level, multidisciplinary delegation; the dialogue had been fruitful.

48. Ms. PAIN (Italy) said that her delegation appreciated the spirit of the dialogue with the Committee and the effort to seek solutions. Her Government welcomed all comments and observations, in particular with regard to military conscription, age limits for training programmes and military schools, assistance and rehabilitation projects, and the use of small arms by children. She took note of the points raised with regard to, inter alia, the use of terminology, compliance with the Optional Protocol in all legislation, the national plan for children and adolescents, the repatriation of Romanian children, international adoption and sex tourism. Finally, she reassured the Committee that the protection and promotion of the civil rights of children was a fundamental part of the Italian legal framework.

The meeting rose at 5.45 p.m.