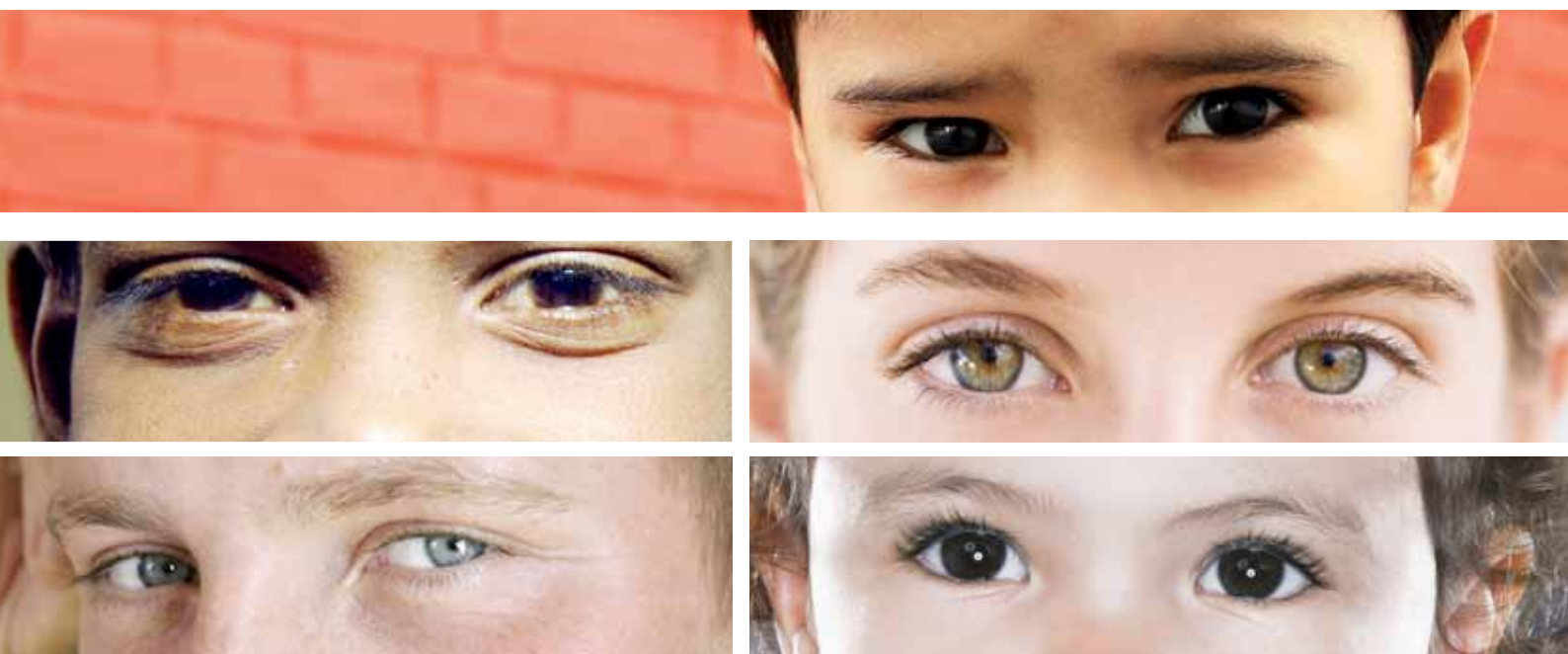


Governance fit for children

To what extent have the general measures
of implementation of the UNCRC been realised
in Italy?



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WE ARE the world's leading independent organisation for children.

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Italian Edition: Politiche per l'infanzia, a che punto siamo? Le misure generali di attuazione della Convenzione Onu sui diritti dell'infanzia e dell'adolescenza in Italia
Translated into English by Christopher Garwood

This publication was draw up by Viviana Valastro and Arianna Saulini (Advocacy Unit - Save the Children Italy).

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Project coordinator: Camilla Nygren, Save the Children Sweden
Graphic Design: Press Art

Save the Children Italia Onlus
Via Volturmo 58
00185 Roma
Tel +39 06 48 07 001
Fax +39 06 48 07 00 39
info@savethechildren.it
www.savethechildren.it

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Foreword

[FROM THE UN COMMITTEE ON THE RIGHTS OF THE CHILD]

The Convention on the Rights of the Child (the CRC) has the ambition to face two challenges:

- ❖ to confirm the status of the child, who has to be considered as a person, not as an object of adults' benevolence, entitled with dignity and rights – from a historical point of view, a “new” child was born in 1989;
- ❖ to offer an universal coverage of all rights to which the child is entitled, irrespective of the place, where the child is living.

This new status of the child, subject of rights, is well illustrated by two principles of the Convention: The primary consideration to be given to the best interests of the child (CRC, art. 3), which places the child at the centre of all decisions affecting him/her, and the child's right to be heard (CRC, art. 12), which considers the child as competent enough for influencing such decisions. These two articles complement each other and present a concept of the active and participating child, which now has to be made a reality.

But how to translate this new status of the child and all the provisions of the Convention, including social, economic and cultural rights (food, shelter, education, health...) and rights to protection (against violence, exploitation, neglect...) into the different realities of countries, regions, communities, ethnicities, cultures and juridical systems?

The legislators of the Convention have not proposed a universal mechanism, but have drafted the article 4 stating that “States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention”, which leaves it to the State Parties find out which measures are helpful to achieve the shared objectives of the Convention. Additional articles give directions; Article 42 (make the Convention widely known), Article 44(6) (make reports widely available), Article 2 (respect the rights of all children) and Article 3(2) (ensure protection and care).

On this basis, the Committee has generated the concept of “General Measures of Implementation” that are to serve as general prerequisites for the implementation of children's rights in details. In the General Comment No. 5 on “General measures of implementation” (CRC/ GC/2003/5) the Committee has explained what all State Parties should consider to do: examine and amend laws, allocate resources, coordinate measures, raise the awareness, carefully monitor the implementation process and arrange for an independent assessment of progress made. These measures are the toolbox for promising efforts to make the substantive rights a reality for children.

The instruments of this toolbox look so far away from what children need and desire. The Committee knows that children are not living in Ministries or in Services, but in villages and cities, in large families or with one parent alone, in an apartment house or in the streets. Still, the very concrete actions, appropriate to context and cultural background, require a framework of general measures in order to secure their effectivity and sustainability.

The studies presented in this report series has investigated, in which ways five member states of the EU and EU institutions have used such general measures of implementation. The results will be seriously considered by the committee in order to make its recommendations to State Parties the most applicable and useful for the benefit of children and their universal rights.

Jean Zermatten

Vice-Chair of the Committee on the Rights of the Child

Lothar Krappmann

Member of the Committee on the Rights of the Child

1. Introduction

Children's Rights in Italy

1.1 Italy and the CRC

The UN Convention on the Rights of the Child (CRC), which was adopted by the General Assembly of the United Nations on 20 November 1989 and entered into force on 2 September 1990, was ratified and executed by Italy with Law No.176 on 27 May 1991. On 27 May 2009, the CRC, therefore, celebrated its "18th birthday" in Italy, too.

Italy also ratified both the Optional Protocols of the CRC (the Optional Protocol on the Involvement of Children in Armed Conflict – OPAC – and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography – OPSC) with Law No. 46 on 11 March 2002.

1.2 Recent Reports and Concluding Observations

Art. 44 of the CRC states that States Parties must submit to the UN Committee, within two years of ratification of the CRC and thereafter every five years, a **Report on the state of implementation of the CRC** in that State Party. The Report must contain all the measures the country has adopted to give effect to the rights recognised in the CRC and on the progress made on the enjoyment of those rights.

This mechanism of monitoring is intended to make the States Parties feel the responsibility of the commitment they made with ratification of the CRC. The process concludes with the publication of the **Concluding Observations**, a document by means of which the UN Committee makes known its opinion on the state of implementation of the CRC in the State Party examined, highlighting the progress made and underlining any problematical areas, inviting the Government to intervene where the State Party is not in line with the Convention on the basis of specific recommendations.

The Government Reports must follow the structure described by the UN Committee in the Guidelines for the drawing up of the initial and periodic Reports, which contain indications on to how to group the various articles of the CRC in thematic groups. The first of these groups concerns the General Measures for the application of the CRC (Art. 4, 42 and 44.6), which are the subject of this research.

The same procedure applies to the Optional Protocols of the CRC (Art. 8 OPAC and Art. 12 OPSC). Here, too, the UN Committee has provided Guidelines for the drawing up of the initial and periodic Reports.

Art. 45 of the CRC also expressly states the possibility for Agencies of the United Nations and "other competent bodies", including NGOs, to submit to the UN Committee their own Reports, which are *alternative or supplementary* to the Government Report, depending on whether they take into consideration all or just some of the questions considered in the Government Report. The representatives of the NGOs who have sent their own Report are then invited to meet the UN Committee "behind closed doors" in the **pre-session**, to present their point of view on the situation regarding the rights of the child in their country.

Italy has so far submitted three Government Reports. The first was submitted in 1995 and is only available in English; the second, entitled “I diritti attuati” (“The implemented rights”), was submitted in 2000 and has since been made available in Italian; and the third-fourth “consolidated” Government Report was submitted in January 2009 entitled “I diritti in crescita” (“Growing rights”), the Italian version of which was made available in February 2009. This last mentioned Report, upon the request of the UN Committee, deals with the implementation of both the CRC and the relative Optional Protocols. The first Government Report on the state of implementation of the Optional Protocols was submitted in 2005.

Law 451/1997¹ required a number of different steps for the drawing up of the Government Report. Presidential Decree 103/2007 simplified these steps stating that: *“the [National] Observatory [on Childhood and Adolescence] must draw up every two years, making full use of the National [Childhood and Adolescence] Documentation and Analysis Centre, an outline of the Report in accordance with Art. 44 of the CRC (Art. 1, paragraph 6)”*. The National Childhood and Adolescence Documentation and Analysis Centre has acquired a central role in this process, collecting all the material from central and local administrations. The Interministerial Committee on Human Rights (CIDU) at the Ministry of Foreign Affairs, whose task it is to draw up and present to the United Nations the reports on the state of implementation of the Conventions safeguarding human rights, coordinates the work of all those involved in drawing up the Government Report and sends the report to the UN Committee. For the drawing up of the Third-Fourth Government Report, it created a special working group to coordinate the contributions of the various departments and organised a series of meetings with representatives of non-governmental organisations operating in this sector and, in particular, with Gruppo CRC.

Gruppo CRC (the Italian NGO Group for the CRC²) was formed in December 2000 with the main goal of drawing up the Supplementary Report. Gruppo CRC submitted the 1st Supplementary Report in November 2001 (the English version in 2002), taking part in the pre-session with the UN Committee. It then submitted the Supplementary Report on the state of implementation of the Optional Protocols in 2005, also taking part in the pre-session. It submitted the 2nd Supplementary Report in November 2009 (the English version in 2010)³.

With regard to Italy, the UN Committee made public its **Concluding Observations** in 1995, after receiving the first Government Report, and then in 2006, after receiving the first Government Report on the implementation of the two optional protocols. The examination of the Third-Fourth “consolidated” Government Report has been scheduled for 2011.

A positive outcome of the Concluding Observations of 1995 was the passing in 1997 of Law 451, which created the Parliamentary Committee on Children and Young People, and the National Observatory on Childhood and Adolescence, whose task it is to draw up the National Action Plan every two years.

A considerable part of the most recent Concluding Observations (2003), which the Italian Government will be asked to refer to during its next meeting with the UN Committee, is devoted to the General Measures for the implementation of the CRC (in particular, legislation, resources, coordination, national action plans, independent monitoring bodies, data collection, training and the dissemination of the CRC) which have been discussed in detail in the individual sections of Chapter 3.

1 Art. 2, paragraph 6 and Art. 3, paragraph 2, subparagraph d).

2 The network, which currently comprises 86 associations from the Third Sector who have been actively engaged for some time in the promotion and protection of the rights of children and adolescents, is coordinated by Save the Children Italia. For further information see www.gruppocrc.net.

3 Gruppo CRC prepares a follow-up report each year, which is available at www.gruppocrc.net.

1.3 The Government's General Outlook

There have been 3 different Governments in Italy in the last 10 years: XIV legislature 2001-2006 (Berlusconi Governments II and III), XV legislature 2006 -2008 (Prodi Government II), and the current XVI legislature since May 2008 (Berlusconi Government IV). The policies in favour of children and adolescents have suffered as a result of a lack of a clear strategy and priorities in the general political agenda. Moreover, the changes in government have not helped to create a children's rights-based approach.

Responsibility for childhood policies is divided up among numerous Ministries (there are at least 10 departments that have some responsibility, which is sometimes shared, with regard to childhood policies⁴), without there being any efficient coordination between these Ministries. The creation of a Ministry for Family Policy in 2007, entrusted with a number of important functions as regards children and adolescents, has fostered a cultural approach based on the family rather than strengthening the idea of children as subjects in their own right.

Italy has not had a National Action Plan for Children since 2004, even though by law such a Plan should be approved every two years⁵. As a result, there is no general framework to guide policymakers and determine the priorities.

Despite the undertakings given by the various political leaders who have replaced one another over the last few years, no law has yet been passed to create a national children's ombudsperson, while at a regional level, even though almost all the regions have introduced legislation instituting a regional ombudsperson, only four regions have so far appointed such a figure⁶.

The alternation of governments has often interrupted parliamentary discussions on bills concerning children's issues, without discussion of these bills being resumed by the new Parliament (or if they are, the discussions start from scratch, as in the case of the creation of the national children's ombudsperson). Several important laws have, however, been passed during the last few years with regard to the protection of children, but this legislation does not form part of a general framework similar to the Children's Act in Anglo-Saxon countries. There is a need to coordinate the various measures that have been introduced over time (as in the case, for example, of the hearing of minors).

At a national level, it is difficult to identify a clear, single strategy or priorities that are agreed upon transversely by the various Ministries. At a regional level, the situation varies considerably from region to region and the failure to define the essential levels of social services (LIVEAS), in accordance with Law 328/2000, which should have guaranteed the minimum levels of these services throughout the country, is threatening to create serious regional inequalities.

1.4 Structure of Governance in Italy

Italy is a parliamentary republic in which its **Parliament** is responsible for passing legislation. Italy's Parliament is divided up into two chambers, both of which have identical functions: the Chamber of Deputies and the Senate of the Republic. With regard to policies in favour of children, since 1997 there has been a two-chamber parliamentary committee on children and adolescents, made up of 20 senators and 20 deputies. This committee is responsible for guiding policy and checking whether international agreements and legislation regarding the rights and development of children are being implemented.

4 See Chapter 3.3.

5 See Chapter 3.2.

6 See Chapter 3.9.

The government of the Italian Republic is a complex organ, made up of the President of the Council of Ministers and the Ministers, who together form the Council of Ministers (Article 92 of the Constitution). This body constitutes the executive power. In the current Parliament there are 13 Ministries and 10 Ministers without portfolio. There is no single ministry responsible for policies regarding children, with responsibility for children's issues divided up among numerous Ministries.

Italy is divided up into **20 regions**, five of which enjoy special status (including Sicily), which guarantees them considerable autonomy. The country is also divided up into 110 provinces, three of which (Milan, Rome and Naples) have more than 3 million inhabitants, and 8,100 municipalities, around 150 of which have more than 50,000 inhabitants (ISTAT 2007). The main organs of local government are the Giunta (the executive and administrative organ), which is divided up into Councillorships based on responsibility for specific areas of policy, and the Consiglio, which is the legislative body.

The reform of the second part of Title V of the Constitution (Constitutional Law 3/2001) conferred exclusive competence for social policy to the regions. The process of devolution, which should have respected the framework provisions of Law 328/2000 (the framework law for the creation of an integrated system of social services), has raised serious concerns about the danger of there being a regional discrimination in the services provided, a danger that has been heightened by the failure of central government to fix the essential levels of social services (LIVEAS).

1.5 Economic, Social and Cultural Context

The demographic decline of the last few decades appears to have stopped: **there are now 10,198,955 people under 18 years of age resident in Italy** (ISTAT 2009). The demographic trends⁷ characterising our country, which has the second oldest population in Europe after Germany, highlight an important generational imbalance. **The old-age index** – the number of people aged 65 and over divided by the number of people aged 0-14 – is now 144 (it was 127 in 2000).

The current rise in the **fertility rate (1.41 children per woman)**, which began in the mid-90s, is due mainly to the foreign-born population and is in any case insufficient to maintain the present population level. The number of births has fallen compared to 2008 (-7,802, equivalent to 1.4%). **The percentage of births of foreign children** out of the total number of births of the resident population increased from 1.7% in 1995 to 13.6% in 2009 (from just over 9,000 births to more than 77,000 births). In 2008, the number of resident foreign children accounted for 7.5% of the total number of resident children (760,733). The number of unaccompanied foreign minors reported to the Foreign Children Committee was 7,797 at 31 December 2008, 90.5% of whom were males.

The data also shows the changes that are underway in **Italian Families**, which now have fewer members and among which there is a growing number of **single-parent families** (12.8% on average in 2007-2008) as a result of the large increase in the number of separations and divorces. This has led to the number of children in custody allocations doubling in the last 10 years (there were 84,165 separations in 2008, 52.3% of which resulted in children in custody allocations for a total of 65,727 children, and 54,351 divorces, 37.4% of which involved children in custody allocations for a total of 26,592 children).

The number of children living outside of their family is falling all the time (from around 40,000 in 1999 to around 30,000 in 2005). These figures, which were also mentioned in the Government Report,

⁷ Source Istat 2009 and the statistical tables of the National Childhood and Adolescence Documentation and Analysis Centre www.minori.it

have been criticised by the associations, both because they are not up-to-date (referring as they do to 2005) and because they do not include Sicily⁸.

The levels of education among the population are low: 46.1% of the adult population (25-64 years of age) have obtained at most a middle school diploma (the European average is 28.5%). The situation is slowly improving, above all with regard to secondary education, due primarily to the performance of girls. The percentage of boys and girls who do not have Italian citizenship out of the total number of students enrolled in the Italian school system has increased considerably over the last few years. In the 2008/2009 school year, 574,133 students enrolled at school did not have Italian citizenship. The number of **students with disabilities in compulsory education** is also on an upward trend. They numbered 192,873⁹ in the 2008/2009 school year, up by 2.5% compared to the previous year.

In 2009, **GDP** fell by 4.2% in the European Union (-4.1% in the euro area), while in Italy GDP fell by 5%. The **employment rate** has fallen significantly, dropping from 65.9% in the European Union in 2008 to 64.6% in 2009, and from 58.7% to 57.5% in Italy. Men were worse affected by the crisis than women, and young people aged 15-29 more than adults (-311,000, equivalent to 8.2%). Interrupting the previous upward trend, the rate of employment among women (aged 15-64) fell to 46.4% in 2009, which is a long way off the European Union average of 58.6%. This was most clearly visible in the south of Italy, where the rates of female employment were already low.

While the risk of **child poverty in the European Union** is 19%, **it is estimated that 24% of children are at risk of poverty in Italy**. This puts Italy at the same level as Spain, Portugal and the new Member States of the European Union¹⁰.

According to ISTAT data, there were 8,078,000 poor people in Italy in 2008, 13.6% of the entire population, while **2,737,000 nuclear families were living in conditions of relative poverty**, equivalent to 11.3% of all resident families¹¹. This phenomenon continues to be more widespread in the south of the country, where the rate of relative poverty is five times higher than that in the rest of the country, and in the largest families, in particular those with three or more children, especially when they are under 18 years of age, and with additional family members. Among families with three or more children, the poverty rate reaches 27.2% on average and 38.8% in the south of Italy. According to ISTAT, and therefore using the national methodology, there are **1,728,000 children in Italy living in conditions of relative poverty**, accounting for around 23% of the **poor population** (even though they account for just 18% of the total population), with the highest rates among younger children (61.2% are under 11 years of age) and an abnormal concentration in the south of the country, where 72% of poor Italian children live¹². The statistics concerning **absolute poverty show that there are 975,000 families – or 2,427,000 individuals, equivalent to 4.1% of the entire population – living in absolute poverty**. The rates of absolute poverty increase with the number of children, reaching the highest value (8%) where there are three or more children. In families with just one child under 18 years of age the rate is 3.1%, rising to 3.8% in the case of two children and 10.5% in the case of more than two children. Higher than average rates are also observed in single-parent families (4.9%)¹³.

8 Source: 2nd Supplementary Report of Gruppo CRC, www.gruppocrc.net.

9 Ministry of Education, University and Research: "Alunni con disabilità per gestione e ordine scuola – Dati provvisori A.S. 2008/09".

10 2nd Supplementary Report of Gruppo CRC, www.gruppocrc.net, which quotes Social Protection Committee "Child Poverty and Well being in the EU", January 2008, pp. 13-15.

11 2nd Supplementary Report of Gruppo CRC, www.gruppocrc.net, which quotes ISTAT, La povertà relativa in Italia 2008, 30 July 2009.

12 2nd Supplementary Report of Gruppo CRC, www.gruppocrc.net, which quotes the Ministry of Labour, Health and Social Policies, Rapporto nazionale sulle strategie per la protezione sociale e l'inclusione sociale, November 2008, p. 6.

13 2nd Supplementary Report of Gruppo CRC, www.gruppocrc.net, which quotes ISTAT, La povertà assoluta in Italia 2007, ISTAT, April 2009.

The right of children and adolescents to participate actively in decision-making processes that concern them (Art. 12 CRC), which has brought about a cultural revolution by recognising children as having a “legal personality” and not just being something to protect, would have required major changes in the political, social, institutional and cultural structures. Despite the initial impetus provided at the end of the 90s also as a result of Law 285/1997¹⁴, it must be pointed out that this principle has still not been fully accepted by the institutional and social structure in our country. Initiatives regarding the participation of children and adolescents in Italy usually occur at a local level and tend to be one-off initiatives. They tend to occur as a result of the enlightened approach of certain local administrators and the presence of non-governmental organisations or associations active in this field and/or involved in participatory processes. In 2008, the National Observatory for Childhood and Adolescence began collecting good practices in the field of participation through an internal group created specifically for this topic. Their work has resulted in the first monitoring of experiences and initiatives, and also the emergence of certain critical points. However, the part of the National Action Plan devoted to “participation” was considerably reduced in the final version of the Plan, above all with regard to the activities envisaged to achieve the goal of participation. The Ministry of Labour and Social Policies did, however, recently commission a study on this topic, using a questionnaire to interview 22,000 school students throughout Italy.

¹⁴ Art. 7 “Positive action for the promotion of children rights”.

2. Methodology

This study has the twofold aim of checking to see whether, and to what extent, the general measures for the implementation of the CRC have been introduced and whether the governance, understood as the activities and institutional framework, is fit for a child at both a national level and, above all, in the four regions that were the subject of this study (Emilia Romagna, Lazio, Lombardy and Sicily). These regions were chosen not only because of their geographical position (in the north, centre and south of the country) and but also because of their importance, not merely in terms of their size.

The analysis (*desk review*) was carried out mainly on the basis of what was contained in the general measures for the implementation of the CRC in the Government Report and the 2nd Supplementary Report of Gruppo CRC, both of which were published in 2009, in addition to the material collected during the interviews. At a local level, the situation in the four regions was studied primarily in four cities (Bologna for Emilia Romagna, Rome for Lazio, Milan for Lombardy and Catania for Sicily) as they are four of the so-called “*città riservatarie*” (metropolitan areas) and, therefore, of special interest. Indeed, following the changes to Law 285/1997, which introduced an ad hoc fund for policies in favour of children and adolescents, 30% of this fund continues to be allocated to the 15 *città riservatarie* identified by Law 285/1997¹⁵, in which there is a direct link between these cities and central government. The statute of the regions, the various Government bodies, the budget and the legislation relating to children and adolescents, all of which was mainly available online, provided the main sources for the analysis carried out at a regional and local level.

This first analysis, which helped to develop the second topic of the study (i.e. *Is the governance fit for children?*), was carried out starting using a basic questionnaire agreed upon among the project partners. The interviews, involving both national and local interlocutors, were the main source of information to used to describe the situation. At a national level, the views were collected of the President of the National Observatory on Childhood and Adolescence and various “technical” experts from the most important branches of Government administration responsible for drawing-up, implementing and assessing of social policies regarding children and adolescents: the Presidency of the Italian Cabinet – the Department for Family Policy, the Ministry of Labour and Social Policies, the Ministry of Foreign Affairs – the DG for Cooperation Development, and an expert in statistics from the National Childhood and Adolescence Documentation and Analysis Centre to provide additional information on the data collection. Given the importance of the parliamentary Committee on Children and Young People, above all with regard to certain general measures for the implementation of the CRC (for example, the National Action Plan for Children), the Chairman and Deputy-Chairman of this committee were also interviewed, but exclusively in relation to their area of competence.

It was decided to seek the involvement of primarily “technical” experts at a local level, too, and, where possible, various Departments within the same Councillorship. The representatives of the Observatories and regional Ombudspersons for childhood and adolescence were also contacted in those regions in which they were operational (Observatories in Emilia Romagna and Lombardy, and an Ombudsperson in Lazio).

¹⁵ Art. 1, paragraph 2, Law 285/1997: Venice, Milan, Turin, Genoa, Bologna, Florence, Rome, Naples, Bari, Brindisi, Taranto, Reggio Calabria, Catania, Palermo and Cagliari.

Given its importance at a local level, a representative of the National Association of Italian Municipalities (ANCI) with specific expertise in the social field was also consulted.

The views of representatives of some of the most important associations at both a national and local level which are directly involved in the issues dealt with in this study were also sought, together with those of the Italian Committee of UNICEF.

The opinion of children was only taken into consideration with regard to the analysis for two regions. In Sicily, a girl representing a group of boys and girls who had taken part in the activities of an association active in that region (Arciragazzi Siracusa) was interviewed, while in Emilia Romagna, a meeting of the Children's Municipal Council (in the Municipality of Calderara di Reno in the province of Bologna) in which the general measures for the implementation of the CRC were discussed by the councillors in the presence of a facilitator was followed.

Problems/limits encountered

A study on the state of implementation of the general measures for the implementation of the CRC constitutes an added value with regard to the studies already carried out in this field if and to the extent which this study is not restricted to seeing whether a State or region has introduced the necessary mechanisms to implement the CRC and what these mechanisms are. It provides an added value if it is able to discover the effectiveness and efficacy of these mechanisms in terms of the changes brought about to the lives of boys and girls aimed at guaranteeing the protection and promotion of their rights. The interviews, therefore, provided a very useful tool for this study, despite the limitations encountered with regard, above all, to the difficulty in identifying the institutional figures best able to provide the information requested in the questionnaire and the difficulty in obtaining precise replies to specific questions. At a local level, the problem of identifying the most suitable interlocutors to answer the questionnaire was made worse by the political changes that were occurring when the survey was carried out (June, July and August). In Sicily, the Councillorship for Social Policy had just been reorganised and its responsibilities had been divided up among different managers; while in the Municipality of Catania police investigations on 16 July 2010 involved numerous people, including public administrators, officials and employees and the directors of associations and co-operatives.

Moreover, because of time constraints, this study carried out using interviews was restricted to the field of social policy even though at a local, regional and national education also emerged as an important issue.

Finally, the part of the study aimed at discovering whether the governance could be defined as fit for children should have attached more importance to the views of children and adolescents, but the fact that the study was carried out during the summer holidays and the difficulty in identifying groups of boys and girls who had in some way already worked on the CRC and/or the topics related to this study resulted in this being possible in only two regions and on a very limited scale.

3. Findings

3.1. Legal status of the CRC

Introduction

The UN Committee, in its General Comment no. 5, recalled that “*States parties need to ensure, by all appropriate means, that the provisions of the Convention are given legal effect within their domestic legal systems*” (point 19) and highlights particularly the importance of “*ensuring that domestic law reflects the identified general principles in the Convention (arts. 2, 3, 6 and 12)*” (specifying that the UN Committee “*welcomes the development of consolidated children’s rights statutes, which can highlight and emphasize the Convention’s principles. But the Committee emphasizes that it is crucial in addition that all relevant “sectoral” laws (on education, health, justice and soon) reflect consistently the principles and standards of the Convention.*” (point 22).

Finally, “where a State delegates powers to legislate to federated regional or territorial governments, it must also require these subsidiary governments to legislate within the framework of the Convention and to ensure effective implementation” (point 20).

The situation at a national level

In its 2003 Concluding Observations, the UN Committee favourably upheld the ratification of two of the CRC’s Optional Protocols: no. 182 of the ILO Convention and the Aja Convention on the protection of minors and the cooperation on the subject to be adopted internationally, as well as the adoption of laws that provide for the establishment of a Parliamentary Commission on Childhood and Adolescence and of the National Observatory on Childhood and Adolescence (Law no. 451/1997); and the Exploitation by Prostitution of Children, Pornography, Sex Tourism and Other Contemporary Forms of Slavery (Law no. 269/1998), as well as provisions for the promotion of children’s rights and opportunities), and the establishment of the National Fund for Children and Adolescents (Law no. 285/1997).

The Committee took note that “a number of substantive pieces of legislation have been adopted and that reference to the Convention” (point 6) and recommended that Italy (continue to) “*rigorously review the legislation and ensure that national and regional laws are rights-based and conform with international human rights standards, including the Convention, and effectively implemented.*” (point 7).

In the 2006 Concluding Observations on the implementation of the Optional Protocol to the Convention on the Rights of the Sale of Children, child prostitution and child pornography (OPSC), the UN Committee expressed recognition of the “various measures taken by the State party to implement and strengthen the protection of the rights enshrined in the Optional Protocol, in particular: *a) the adoption of Act 38/2006 on sexual exploitation of children and paedo-pornography, including through the Internet; ; b) the adoption of Law 228 on Measures against the trafficking of people in 2003; ; c) the establishment of a Fund for Anti-Trafficking Measures in the Prime Minister’s Office; ; d) the establishment of the Interministerial Committee for the Coordination of the Fight against Paedophilia (Comitato Interministeriale di Coordinamento per la Lotta alla Paedofilia, CICLOPE) in 2002; ; e) the establishment of an Observatory on the Phenomenon and on Prevention and Suppression Policies in 2003*”.

Both the institutional stakeholders as well as representatives of the associations involved in this research think, in principle, that the adoption of the CRC within Italy's national legislation has played an important role in the affirmation of children's and adolescents' rights.

In particular, the positive impact of the ratification of the CRC on a legislative level has been unanimously recognised: especially during the first decade since its ratification, as also witnessed by the UN Committee, there has been an intense issuance of regulations with particular attention to children's and adolescents' rights.

Law no. 285/1997 represented a truly innovative shift from the instant it established the National Fund for Children and Adolescents, disciplined in its expenditure and the methods of accessing it, yet also dedicated to giving specific attention to the need for data collection and analysis in order to formulate policies on the subject of childhood and adolescence and the *accountability* of governing institutions. It provides for an annual report in Parliament on the status of the law's implementation and the organisation of a national conference on childhood and adolescence every three years.

Law no. 451/1997 has had a decisive effect on this reform process by establishing two very important coordinating bodies: the Parliamentary Commission on Childhood and Adolescence and the National Observatory on Childhood and Adolescence, which was given the task of preparing, biannually, the National Action Plan for the protection and Development of Children (National Action Plan for Children), a document that aims to steer policies and the investments directed to the implementation of children's and adolescents' rights. The setting up of the National Childhood and Adolescence Documentation and Analysis Centre in support of the activities carried out by the Observatory, endowed with adequate resources, represents yet one further display of the degree of attention given to this theme.

However, with the passage of time, successive governments, regardless of political stance, have not been able to maintain that tight coordination that could be seen in the Ministry of Social Solidarity, coordinator of the National Observatory on Childhood and Adolescence, as the main referring body with respect to policies on childhood. The establishment of a Ministry for Family Policies (now a Department of the Presidency of the Council of Ministers), assigned with important functions on the subject of childhood and adolescence, including co-presidency of the National Observatory on Childhood and Adolescence, together with a progressively increasing number and level of competence in the subject of children at the head of certain Ministries (as, for example, at the Ministry of the Interior, on the subject of foreign children), has led to an excessive degree of fragmentation that could not be sustained by reinforcing coordination. Furthermore, in the Ministry of Social Solidarity, in the various alternating legislatures, the role of social policies diminished increasingly, so much so that the current government has established a single Health, Labour, and Social Policies Ministry. Law no. 172/2009 separated "health", establishing once more a Health Ministry, the proxy for "labour" remained the current single under-secretary, and no one was appointed to head social policies. Besides, following constitutional reform and the introduction of Law no. 328/2000, the National Fund for Children and Adolescents was merged (with the exception of 15 so-called legitimate cities) with the (Indistinct) National Fund for Social Policies, and no essential standards were defined with regard to the supply of social services (LIVEAS). The last National Action Plan for Children dates back to 2004.

At a parliamentary level, the Parliamentary Commission on Childhood and Adolescence cannot manage to play a particularly incisive role and, despite numerous proposed laws presented to a series of legislatures, the law establishing an Ombudsman for childhood and adolescence has not yet been passed.

With respect to the incidence of individual principles contained in the CRC in the national context one must first point out the valuable importance played by the **principle of the child to be heard (CRC,**

Article 12), especially in judicial proceedings. All of the laws enacted after the CRC came into force have explicitly introduced the principle of being heard and, above all, the reform of the Law no. 476/1998 on adoption and foster care. Up until the late 1990, the dominating cultural trend was to mistrust what children said, that it was not necessary to hear them, that the child could suffer a trauma by judicial hearings, that the child would probably lie. The CRC has played a relevant role since people now generally think that a child should be heard in all contexts (judicial, health, social, scholastic, familial, etc.). The civil process used to decide upon children has changed, both minors and referring adults are far more participant, and this is therefore also reflected on services which now pay more attention to what the child says and wants, also because the judge him/herself should be requesting it be so.

In the same way, the principle of the **best interests of the child (CRC, Article 3)** has found ample space within the nation's legislation and in judicial contexts. The principle of the best interests of the child is one that is referred to almost systematically in the formulation of regulations and the fact the child's best interests must be taken into consideration in all decisions concerning the child has inevitably involved judges and influenced jurisprudence.

However, other principles have instead found less attention, perhaps also due to the largely generic way they were expressed and formulated (like, for example, on the treatment of minors in prison and on punishment of children) and it is difficult, in practical terms, to determine whether the judges, the social welfare workers and services always respect the obligation to hear the child or whether this remains, rather, a simply formal execution of one's duty. Analogous considerations are also valid with respect to the best interests of the child, which can be interpreted in different ways and has led to debate on whether it should entail interests exclusively, best, prevalent, with practical repercussions, above all when assessed in contrast with parents' rights and duties. According to experts interviewed for the present study it is difficult to establish the child's interest in each individual case, and the risk is that "in the interest of the child" very different decisions can be taken and that consequently the best interest of the child became a purely affirmation of principle.

Among the positive aspects, it's important to point out that **ad hoc laws** aimed at implementing the rights affirmed by the CRC and the Optional Protocols (as, for example, Law no. 269/1998 in fighting the sexual exploitation and sexual abuse of minors) were also issued, and that **reference to the CRC** has, on the one hand, curbed the application of certain regulations regarding minors (such as, on the subject of immigration, the prohibition of the expulsion of minors provided by Article 19 T.U. Immigration), while on the other hand, has played a propelling role with regard to legislative and system changes already in process before it came into force (such as, for example, on the subject of maltreatment of children, a theme on which debate had already begun in the early 1980s).

Despite this, it is quite rare, in judicial contexts, for the CRC to be used as "working tool" by legal staff, as in reading into the sentences, even positive examples in this sense are not lacking¹⁶, explicit references to the rights affirmed therein, if not through the services of juvenile Judges (also thanks to the important investment made by the Magistrates' Governing Council in providing training) and there still remain important reforms to that need to be put into effect (Italy, for example, is one of the few European countries in which reference is still made to parental authority rather than parental responsibility).

Finally, it is worth highlighting the importance that the CRC's coming into effect has had with respect to the functioning of associations working on the behalf of minors: the CRC has represented a fundamental tool for advocacy that has made their work more incisive in dealing with public institutions.

¹⁶ Court of Cassation 3804/2010 on the nomination of a special trustee.

What concrete impact the CRC has had in terms of changing the lives of children and adolescents remains, instead, something none of the subjects involved in this inquiry is in a position to evaluate with precision, but would nonetheless state that, despite the CRC being in force, serious violations of children's and adolescents' rights persist.

The situation at a local level

In any consideration in recognition of the Regions' legislative competencies with respect to social policies, following the modification of Title V of the Constitution, it also becomes particularly important to identify whether and to what extent the CRC has had an impact on a local level.

First of all, it must be pointed out that 12 Regions¹⁷ have declared citing the protection and/or promotion of the rights of the child in their own Statutes, but most of the regional statutes were approved in the 1970s or, in any event, prior to the CRC's ratification.

With regard to the Regions, the subject of this study, it was found that the Region of **Lazio**'s Statute explicitly mentions the CRC; the city of **Rome** merits particular mention as its 2008 Statute was modified, introducing a regulation relating to the participation of children and adolescents in local community life¹⁸.

In the Statute of **Emilia Romagna**¹⁹ Region, *“the promotion and diffusion of a culture of the child aimed at achieving recognition of children as subjects entitled to rights, from the right to health, to have social relations, to study, to play, to engage in sports”* is listed among the social policies which the Region works towards, and there is a regulation by which a Ombudsman for childhood and adolescence is instituted *“to guarantee the full implementation of the rights and interests of individual minors as well as groups of minors”* (art. 71); the Statute of **Lombardy**²⁰, although dating to 2008, does not cite children as subjects with rights nor does it mention the CRC, but does refer generally to citizens and human rights and, in particular, affirms that the Region *“safeguards the family as recognised by the Constitution, through appropriate political, economic, social and fiscal policies, with particular regard to **children**”* (art. 2, para. comma 4, b).

In terms of regional legislation on the subject of childhood and adolescence produced following the CRC's ratification, the experiences of two Regions stand out in particular:

- ❖ **Emilia Romagna**, which with regional law no. 14/2008, “Regulation on the subject of policies for younger generations”, not only referred explicitly to the CRC, but also established the regional Observatory on childhood and adolescence (art. 7)²¹, recognised children and adolescents as autonomous subjects with rights (art. 8), foresaw and regulates a system of services and opportunities for children and adolescents (Part I, Title II), that includes, within the field of prevention and tutelage, a technical Commission with the task of coordinating between institutions involved;
- ❖ **Lombardy**, which with regional law no. 34/2004, Lombardy's “Regional policies for minors, has the strong points of establishing the regional Observatory on minors (art. 9, and a Coordinating Committee for the implementation of inter-sector policies devoted to minors (art. 8), which, despite citing the CRC, is to maintain an approach that is strongly focussed on the role of the family.

17 Abruzzo, Basilicata, Emilia Romagna, Lazio, Liguria, Marche, Molise, Piedmont, Puglia, Tuscany, Autonomous Province of Bolzano, Umbria. Source: Coordinamento Pidida, Report 2008.

18 Art. 2, para. 9. Deliberation no. 43, March 17, 2008.

19 Statute of the Emilia Romagna Region, regional law no. 13/2005.

20 Statute of the Lombardy Region, regional law no. 1/2008.

21 The Observatory on childhood and adolescence, a division of the regional Observatory, established by article 7, paragraph 1 of Regional Law no. 14, July 28, 2008; active in real terms since 2002.

The **Lazio** Region is, however, the only one to have nominated a ombudsman for childhood, while the other Regions, with the exception of Sicily, already have a law that establishes the post.

In **Sicily**, according to the stakeholders who have been interviewed, legal interventions that take into consideration what is envisaged by the CRC have been implemented, even though they were not specifically cited (for example, with respect to minors outside the family unit).

Regulations have been adopted periodically towards implementing Law no. 285/1997 and reports on the status of the same law's enactment have been released annually²².

As was the case at a national level, the same can be said of local levels in that the subjects involved in this study, aside from recognising within Law no. 285/1997 truly new ideas on the subject of policies for children and adolescents since the CRC's coming into force, were not in a position to be able to assess the concrete impact the CRC has had in terms of changing the lives of children and adolescents.

The obligatory closing of institutions has been cited as a significant event associated with the CRC's coming into force.

In some cases, it is claimed that the amount of attention given minors generally has increased, not only at a legislative level, but even at an administrative one, but in others it is claimed that attention to policies regarding children was already elevated on local levels and that therefore the CRC did not have a specific impact on a municipal level (citing, for example, the fact that the CRC is not usually mentioned during deliberations regarding minors), yet revealing that claimed rights are not always implemented in reality (for example, the right to be consulted in decisions that affect them through the municipal youth councils is not a guarantee itself but it depends on the effectiveness of this mechanism).

Conclusions

The CRC has certainly played an important and recognised role in the affirmation of children's and adolescents' rights, but it has not been decisive in completely effecting a change in the lives of children and adolescents, succeeding to do so only in certain specific sectors and mainly at legislative levels. This is made apparent by the difficulties encountered in trying to provide examples of the concrete changes there have been (if there have been any). Referring to the family as a whole, firstly, and at times, rather than to minors as subjects with rights is part of a culture-based approach that continues to be fairly widespread on institutional, as well as national and local, levels.

The most important reforms introduced on a national level to implement the CRC during the first years after it was ratified, foremost among which was Law no. 285/1997, have over time been emptied of meaning or taken a secondary place. Others, which could have contributed to increasing recognition of children's rights, as for example, the establishment and nomination of a national and regional children's Ombudsman, let alone the approval of a National Action Plan for Children, have still not been completed, or only in fits and starts.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to the Government**, to undertake a complete implementation of the legislation that has been adopted on a national level to conform with the contents of the CRC;

22 For a complete listing: Centro nazionale di documentazione e analisi per l'infanzia e l'adolescenza, Dieci anni di attuazione della Legge 285/1997 Quaderno 47.

- **to Parliament and**, in particular to the Parliamentary Commission on Childhood and Adolescence , to monitor and solicit the Government to monitor the impact of laws and policies affecting children and adolescents in terms of changes brought about in the lives of children and adolescents, and consequently promote the adoption of legislative provisions required to guarantee the implementation of the rights decreed by the CRC;
- **to the Regions**, to fully implement all of the rights decreed in the CRC on a territorial level, starting with the establishment and nomination of a Ombudsman protecting children and adolescents.

3.2 Development of National Action Plan for Children

Introduction

In General Comment no. 5, the UN Committee reiterates that *“If Government as a whole and at all levels is to promote and respect the rights of the child, it **needs** to work on the basis of a unifying, comprehensive and rights-based national strategy, rooted in the Convention”* (point 28).

To be effective, such a strategy “needs to relate to the situation of all children, and to all the rights in the Convention. It will need to be developed through a process of consultation, including with children and young people and those living and working with them” (point 29) and to have strength “it needs to be linked to national development planning and included in national budgeting; otherwise, the strategy may remain marginalized outside key decision-making processes” ” (point 31).

Furthermore, the strategy “must not be simply a list of good intentions; it must include a description of a sustainable process for realizing the rights of children throughout the State” ” and “needs to be adequately resourced, in human and financial Terms” ” (point 32).

Finally, “once drafted the strategy will need to be widely disseminated throughout Government and to the public, including children (translated into child-friendly versions as well as into appropriate languages and forms). The strategy will need to include arrangements for monitoring and continuous review, for regular updating and for periodic reports to parliament and to the public.” (point 33).

The situation at a national level

Law no. 451/1997 provided, for the first time, the organisation of *“National Action Plan interventions for the protection of rights and advancement of subjects in the age of development with the aim of prioritising programmes relating to minors, and to strengthen cooperation on child development around the world”* noting that *“the plan also identifies the means of financing interventions envisaged by it as well as the forms of development and coordination of actions carried out by public administrative bodies, Regions, and Local Institutions”*.

During the more than ten years that have passed since the law came into force, only three National Plans²³ of action have been adopted by the Italian government: one in 1997 (valid 1997/1998); another in 2000²⁴ (valid 2000/2001), and the third in 2003²⁵ (valid 2002/2004).

In its 2003 Concluding Observations, the UN Committee had taken note of the fact that Child Action Plan was to be debated in Parliament and had recommended Italy to obtain its adoption (point 12).

23 In the draft of the new Childhood Plan it is, however, presented as the third Action Plan.

24 D.P.R. 13 giugno 2000.

25 D.P.R. 2 luglio 2003.

Even in the 2006 Concluding Observations – both on the implementation status of the Optional Protocol on the involvement of children in armed conflict (OPAC) as well as on that of the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) – the UN Committee had noted that it was in the process of concluding and adopting the National Action Plan for children and adolescence (point 8, OPAC; point 9, OPSC) and had recommended reinforcing efforts to “*strengthen its efforts to finalize, adopt and implement, in consultation and cooperation with relevant stakeholders, including civil society, a national plan of action for children and provide a specific budget allocation and adequate follow-up mechanisms for its full implementation*” (point 9, OPAC; point 10, OPSC).

In 2007, a legislative modification²⁶ took place which, aside from reorganising the National Observatory on Childhood and Adolescence, modified the procedure that was meant to lead to the passage of the National Action Plan. According to the current procedure, “*the plan proposed by the Ministry of Social Solidarity and the Ministry for Family Policy, having consulted the Parliamentary Commission for Childhood and Adolescence is to be conveyed within sixty days of its presentation. It is adopted by decree of the President of the Republic, subject to the advice of the Joint Conference and deliberations by the Council of Ministers, within the thirty days following the abovementioned deadline*”. Law no. 112/2009 specified that the judgement of the Commission for Childhood and Adolescence would be seen as obligatory for the adoption of a National Action Plan.

In 2007, following the reconstitution of the National Childhood Observatory, on the occasion of its first meeting, the technical-scientific Committee of the National Centre for the Documentation and Analysis of Childhood and Adolescence had proposed an Action Plan Scheme for children and adolescents, with a related timeline according to which the Plan would have begun in 2008, but at the conclusion of the XV Legislative session its progress was interrupted²⁷.

The Observatory was reconvened on September 17 2008, but the work on the National Childhood Plan only started up again at the end of February 2009. In drafting the Plan the Observatory worked in seven groups, subdivided by work themes. Each of the groups produced a report, merged into a draft National Plan, which was presented to the Government in October 2009.

The Department for Family Policy and the Ministry for Social Policies, instead of limiting themselves to approving the Plan that had been presented, in fact disclaimed the work carried out by the Observatory. The new draft was presented to the Observatory at the meeting held on July 14 2010, after which a new version was circulated. The contents of the latter represented a sort of “compromise” aimed at on the one hand at avoiding depriving the Plan of its original contents and, on the other, at causing the process of defining the Plan to suffer yet another standstill.

During the July 22, 2010 Council of Ministers’ meeting, the President’s Undersecretary of the Council of Ministries with authority over Family Policy illustrated the four governing lines²⁸ of the National Action Plan for Children and adolescence 2010-2011, specifying that “*the new Plan gives the family more prominence*”.

26 Art. 2, para. 5 DPR 103/2007.

27 Gruppo CRC, 2nd Supplementary Report.

28 1) consolidate an integrated network of services and opposition to social exclusion, which is the “container” for a system of interventions aimed at ensuring continuity of actions involving prevention, care and recovery; 2) reinforce the safeguarding of rights, which is the intervention sector focusing particularly on legal protection and safety; 3) foster participation in the construction of an inter-generational pact, which provides the intervention context in which planning suggestions relating the younger citizens are gathered; 4) promote the integration of immigrants, which is the guiding principle in which proposals concerning foreign and Roma minors came together.

THE EXPERIENCES OF CHILDREN:

SICILY: I didn't know there was a National Action Plan for the rights of children and adolescents. I think a National Action Plan would need to include useful instructions on how to achieve certain objectives. On a thematic level, I think that a National Action Plan for the rights of children and adolescents should first of all comprise aspects relating to school: guidelines that help guarantee improvements in school buildings, for a start, but also to evaluate the youngsters' aspirations by, for example, providing financial help for trips, foreign exchange programmes, sports and hobbies (for example, dance courses are always private and are quite expensive).

Emilia Romagna: the youngsters in the municipal council didn't know the Child Plan even existed, they had never heard anything about it. They supposed it was a combination of various different types of projects concerning children, the municipal Youth Council, for example, is a project that could be provided for in the Plan. Any definition of the Plan should involve psychologists, teachers, educators and the youngsters as well.

Involvement of civil society in the Plan's formulation is limited to the presence of UNICEF and 8 associations among the components of the National Observatory on Childhood and Adolescence, while the participation of children and adolescents in this process has not been envisaged. The associations interviewed highlighted the fact that the nomination of the 8 associations was purely political, and did not in fact reflect a process involving democratic participation, also because the mechanisms for arriving at agreements and for the exchange of information are lacking, so that each participant ends up representing only him/herself. Still, they all agreed that, despite its limitations, it is the only body at a national level that provides for the formal participation of these associations. With regard then to civil society, it did play a very strong role in working groups, therefore also having influence of the drafting of the plan, aside from the fact that the selection of the work groups led to hearings with many displaced situations or realities throughout Italy, favouring above all associations and cooperatives.

The representatives of institutions interviewed for the purposes of this study claim that in any event care is taken to encourage the **participation of boys and girls** at an institutional level. This could, it appears, be attested by the fact that the National Centre for the Documentation and Analysis of Childhood and Adolescence's website has a section devoted to minors²⁹ and that the Ministry for Social Policy commissioned the Centre to conduct research on this theme. However, it was also revealed, mainly by the associations involved, that the part of the Plan dealing with the principle of participation had been significantly scaled down in the version proposed by the Government, especially in the originally devised actions.

29 www.teenpress.minori.it/

THE EXPERIENCES OF CHILDREN:

SICILY: I think that children and adolescents **MUST** participate in developing the Plans/ strategies for childhood and adolescence because they are the ones who make use of the services. They can do so in different ways, for example, certain days devoted to particular themes/questions could be organised, or ad hoc interviews like this one could be carried out. School may be the ideal place for it.

Among the principal factors identified by those spoken with at institutions involved in this study as **potential obstacles to the implementation of the Plan**, if approved, is that on the one hand the objectives set at a national level will then actually need to be implemented on a regional one, while on the other hand the lack of resources which are not provided for in the “implementation acts”, but not directly in the Plan, would lead to delays in national and regional legislation, as well as administrative acts that should provide for their allocation. Furthermore, the Plan would be limited by the fact that it was devised at a time in the past that differs from the present one in terms of institutional and political set-up, in which even civil society’s role has changed.

As for **monitoring the National Action Plan for children**, as recommended by the UN Committee, it must be pointed out that the government’s report infers that this has been carried out during preceding years³⁰, despite not having been provided for, and yet, was not made public³¹.

In the new National Plan, still in the process of meeting approval, monitoring constitutes an important new element, even though – following the revisions made to the original draft – it appears much like an affirmation of principle, not having been provided for through a concrete, formulated article. Monitoring should be both qualitative and quantitative and above all participatory, as also requested by civil society. Those in charge of monitoring are “National Observatory on Childhood and the National Centre’s scientific Committee aside from all subjects involved in the realisation of the Plan”. With regards to the Observatory, the concerns voiced relate to the fact that it was not re-included among the subjects involved in the individual actions which structure the Plan, and that the current observatory’s mandate expired in August 2010. It will therefore be necessary to see how such monitoring will be developed in practice, and whether, in the absence of concrete indications of anyone taking charge of it, the subjects involved in the current study may face risks.

To complete an analysis of the situation at a national level in terms of strategy, it must be pointed out that, aside from the National Action Plan for Children, there are **other instruments** that, in specific sectors, have been formulated to implement the rights of children and adolescents. Examples of this are the Monitoring of the Special Plan for the Development of an Integrated system of Social and Educational Services and the plan to implement Law no. 285/1997.

The situation at a local level

The local level became formally involved in the development of the National Action Plan from the moment that National Observatory on Childhood, in charge of organising the Plan’s scheme, included among its components 3 representatives from the National Association of Italian Municipalities and 6 representatives from the Regions Conference.

30 Third and Fourth Periodic Report to the UN Committee on the Rights of the Child on the implementation of the CRC and related Optional Protocols (Government Report) p. 11

31 Gruppo CRC, 2nd Supplementary Report p. 26.

Actually, in light of the interviews gathered for the purposes of this study, involvement at territorial, and particularly municipal, levels does not appear to be really effective. Only in those Regions which furnish components of the Observatory, which should be represented in the Regions Conference, has the work produced by the Observatory on the subject been circulated and fully shared internally at an institutional regional level. The regional Ombudsman for Children were not directly involved.

In general terms, it is believed that the Plan was not formulated so as to be of relevance on a local level. It is perceived as a declaration of intent, a tool that is more useful in justifying Italy's commitment to pursuing policies benefiting children, but not has not nor can it have a real relevance at a local/regional level if it does not provide for the allocation of resources for the development of the policies it cites. As is clearly stated in the new formulation of the Plan, in order to reach the objectives outlined there would need to be "decentralised administrative acts", that is to say the Regions or Local Authorities: it's up to them to decide if and how to implement them by allocating the required resources. The only Plan on the subject of childhood that has an effective relevance on a regional/local level is the triennial Child Care Services National Plan (Nurseries) that received substantial State funding in its implementation.

The National Plan could also encounter problems in its implementation due to the disjointedness of competencies at a local institutional level³².

At a municipal level, in the cities involved in this study, doubts and perplexities were expressed with respect to the involvement of Local Authorities formulating the Plan's implementation, also in view of its legitimacy as a policy tool following the modification of Title V of the Constitution.

In the Regions studied here what has been perceived as a weakness point is coordination between regional and core, or central levels (while the coordination between regions, undertaken by the Regions Conference, is considered more effective).

To reach the National Action Plan's objectives at a local level the actual tool used, though not directly or explicitly with this aim³³ in mind, but rather more in order to implement Law no. 328/2000, is the **Zone Plan**.

In Emilia Romagna article 9 of Law no.14 provides that "*the Region prepare a specific programme for the promotion and protection of the rights and development of subjects in the age of development and of parental support*", which would be inserted, also as a means of updating it, within the Triennial Social Healthcare Plan³⁴.

Civil society's involvement in the formulation of these tools is generally considered to be important and would seem to be guaranteed for the most part through participation in ad hoc thematic boards (so-called "328" Boards) structured on the basis of themes (the topic of children).

While one cannot say the same of children's and adolescents' involvement, which is viewed as "premature" unless it already exists in activities and assessments that are being carried out by the projects.

32 For example, in the Lazio Region, in the Councillor's office for social policies the immigration department is in charge of foreign and immigrant minors and of socio-cultural integration; the area of social inclusion of the Department of Social Affairs is dealing with children with disabilities; the area of Social and Health care integration of the Department of Social Affairs is in charge of dealing with families and maltreatment; another area is in charge of nurseries and children's recreation centres. Yet another entirely different Councillorship is responsible for scholastic integration.

33 In Lombardy, for example, the actions that are being carried out, insofar that they coincide with some of the points laid out in the National Plan, attempt to first of all reach the objectives envisaged by the regional government's Plan, formulated on the basis of the territory's needs.

34 The latest was for 2008-2010 and includes a chapter (II, part III) devoted to childhood and adolescence. See also paragraph 3.3 – Coordination.

Conclusions

Italy, having remained for a full six years without an integrated, complete national strategy based and founded on the Convention, continues to fail to comply with the UN Committee's instructions, thereby seriously compromising an effective respect for children's and adolescents' rights.

Despite there having been delays due to the succession of different pieces of legislation, and to the fact that, through this alternation, preceding work was lost, as in the case of involvement on the part of a number of institutions which could express opinions with competence, the weakest aspect with respect to the latest phase in the process of formulation was represented by a substantial disavowal of the work carried out by the Observatory. Furthermore, it highlights the expiration of components of the Observatory's mandate in August 2010.

Not only the Plan's formulation, but even its implementation, once approved, had its problematical aspects, foremost among which was the fact that the objectives set at a national level will in fact need to be implemented at a regional level. This situation was pointed out at a national level both by the associations as well as the related institutions involved in this study and confirmed by those involved at a regional level.

The fact that the National Action Plan has ended up having no relevance even at a regional level and does not constitute a reference point in the formulation of proposed regional legislation and policies, is worrying not only because it debases the content, but also because it carries the risk of creating discriminations in the treatment of minors in the different Regions, especially in the absence of essential Standards in services concerning social rights.

Such observations are also confirmed by the fact that even in the absence of a National Action Plan for Children, the Regions and Municipalities have equipped themselves with their own planning tools even if not devoted specifically and exclusively to the CRC, that were formulated with the involvement of civil society, but not with young people, showing, even in this context, how little consideration is given to the possibility that youngsters play an active role in decision-making processes which, as in this case, are extremely pertinent to questions regarding them.

A proposed way of trying to guarantee an effective integration of the national and regional Plans could be achieved by modifying the course taken by the Plan's formulation, assessing the contributions made at regional and local levels.

With respect, on the other hand, to monitoring, notwithstanding the positive assessment expressed in the Plan's contents, there is a risk that – without concrete guidelines on the subject allowing for its implementation – no persons working at relevant institutions will take charge of it and it could thus remain a mere legal provision.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to Parliament**, to consider seizing the opportunity to introduce a legislative modification aimed at redefining the course that approval of the National Action Plan for Children should take, for example, by enhancing the role played by the State-Regions Joint Conference;
- **to the Government**, to guarantee an effective implementation of the Plan through the allocation of sufficient funds and nominate a person at an institution to head the Plan's monitoring operations;
- **to the Regions**, to contribute to the identification of proposals aimed at improving and reinforcing synergy between the national and regional Plans for children.

3.3 Co-ordination of implementation

Introduction

In **General Comment no. 5** the UN Committee highlighted (point 37) the importance played by coordination **between central Government Departments, between different Provinces and Regions, between the central Government and the other levels of government, and between the Government and civil society** with the scope of “ensure respect for all of the Convention’s principles and standards for all children within the State jurisdiction” and reiterated that the obligations inherent in the ratification or endorsement of the Convention must be recognised by the entire Government and not just the Departments that have a direct impact on children. On the subject of coordination between central and local levels, one needs to also take into account “that decentralization of power, through devolution and delegation of government, does not in any way reduce the direct responsibility of the State party’s Government to fulfil its obligations to all children within its jurisdiction, regardless of the State structure” (point 40).

The situation at a national level

a) Coordination within and between central Government Departments

In its 2003 Concluding Observations (point 4), the UN Committee had expressed its regret that Italy had not taken steps to follow up on the UN Committee’s 1995 recommendation on the subject of coordination in the Convention’s implementation³⁵ and therefore called upon the Italian Government to **reinforce an effective coordination within and between government agencies at national, regional and local levels**, in the application of policies promoting and safeguarding children, as had been already previously recommended (point 11). Furthermore, the UN Committee, while welcoming the establishment of the **National Childhood Observatory**, pointed out that “this coordination is not sufficient and that some specific issues are coordinated outside this National Observatory” (point 10).

First of all, it must be pointed out that there are **seven Ministries** that have some authority on the subject of minors, aside from **three Departments of the Presidency of the Council of Ministries**:

1. **Ministry of Labour and Social Policies:** included within the scope of its Head Office is a **Division (III) devoted to policies concerning children and adolescents**. Its operations are centred on social rights, it is responsible for carrying out works/projects, and has the task of directing and coordinating actions benefiting children and adolescents and safeguarding minors’ rights. Additionally, it co-supports the National Observatory on Childhood and the National Centre for the Documentation and Analysis of Childhood. Within Immigration’s Head Office, it is Division IV that deals with Policies aimed at safeguarding foreign children.
2. **Ministry of Education, University and Research:** within the scope of the Department of Education, it operates the Head Office for students, integration, participation and communication.
3. **Ministry of Justice:** within the scope of the Juvenile Justice Department, operates the Head Office for the implementation of legal provisions³⁶.
4. **Ministry of the Interior:** the **Public Security Department** carries out activities against paedophilia through the “Juvenile Divisions” at every police station’s task force and through the Postal and

35 CRC/C/15/Add.41 Point 13.

36 Within which is Office III – Protection and safeguarding of minors’ rights, that is concerned with the promotion of interventions in aid of subjects who are at risk of suffering further social exclusion.

Telecommunications Police that carries out, among other things, an intensive investigative activity in combating the phenomenon of online paedophilia; the **Civil Liberties and Immigration Department** conducts study, research and information activities on the prevention of paedophilia and instigates actions taken by Prefects in the Provinces on the subject of combating the phenomenon but also deals with certain issues relating to unaccompanied, foreign children; the **Department for Fire-Fighting, Public Emergencies and Civil Defence** created the “Safe School” project to be included in schools’ obligatory training in civil defence. The Ministry of the Interior also has authority on the subject of missing minors³⁷, and the fight against acts of violence on and maltreatment of children, with particular reference to the phenomenon of bullying.

5. **Ministry of Economic Development:: the Communications Department** has the task of dictating, on the basis of its regulations and in agreement with Ministry of Public Instruction, the effective measures involved in carrying out school campaigns promoting a correct and mindful use of television.
6. **Ministry of Health:** for the promotion of health, within which should operate the Joint Committee of the Ministry of Labour and Social Policies, the Ministry of Health, and the Ministry of Instruction, University and Research, established in 2009, to guarantee the full implementation of the right to study and to the health of minors overseen by schools in hospitals and/or by home schooling services.
7. **Ministry of Foreign Affairs:** has authority on the subject of international adoptions³⁸ and international abduction of minors. Furthermore, the Directorate General for Development Cooperation is in charge of studying, coordinating and promoting actions aimed at defending the respect of human rights in the wider context of development strategies and the fight against poverty.
8. **Presidency of the Council of Ministers – the Equal Opportunities Department:** deals with paedophilia, abuse, slavery (including of minors), female genital mutilation, eating disorders (anorexia and bulimia).
9. **Presidency of the Council of Ministers – the Family Policies Department** promotes and coordinates the Government’s actions aimed at ensuring implementation of policies in favour of families *in every context*, as well as Government initiatives in the area of legal aspects concerning family relations, and national and international adoptions.
10. **Presidency of the Council of Ministers – the Youth Policies Department,** even if the “age” of the youth is not specified, it does carry out projects and initiatives aimed at also at adolescents.

The Italian system, at its centre, therefore comes across as being effectively characterised by a high degree of fragmentation with regard to operations on the subject of children and adolescents, distributed, and not without duplication, throughout various Ministries/Departments. It is not at all clear how an efficient inter-ministerial coordination could be achieved other than within the National Childhood Observatory.

The place that is recognised, even by representatives of institutions interviewed for the purposes of this study, as that appointed to the coordination of child policies is the **National Observatory on Childhood**. It serves as the coordinating body between Central and Regional administrations, Local

37 It manages, via the “Telefono Azzurro” association, the single European number, 116-000, to report cases in which children and adolescents, whether Italian or foreign, have gone missing.

38 It collaborates, through diplomatic/consular networks, with entities that are authorised to carry out international adoption procedures to ensure good outcomes (art. 32 point 4 Law no. 184/1983 as amended by Law no. 476/1998).

Authorities, professional bodies and related associations, Trade Union Organisations, and representatives of voluntary and third sector services that are concerned with child welfare (totalling 56 components)³⁹. The Observatory was established in 1997⁴⁰ with the specific task of preparing, biannually, both the National Action Plan for the protection and the Children development of Children (National Action Plan for Children)⁴¹ as well as the report on the status of children in Italy and on the implementation of their rights, and the outline upon the basis of which the Government prepares its Report on the state of the CRC's implementation in Italy⁴². The Observatory is headed by the Ministry of Labour and Social Policies, and since 2007, together with the Family Policies Department⁴³. As for the activities carried out by this body since 2003, the year in which the National Action Plan for Children was approved, discontinuation of its operations needs to be noted as a significant weakness, made clear from the meagre number of meetings held⁴⁴. The Observatory operates within "thematic" work groups and "mixed" in terms of their composition. Based on the survey performed for this study, this method was deemed positive by the members of the Observatory.

In the execution of its activities the Observatory can make use of the **National Centre for the Documentation and Analysis of Childhood and Adolescence**⁴⁵ (CNDA), which, from an organisational/administrative point of view, heads the central administrations. The central government bodies are: the Presidency, the Coordinator of scientific activities and the technical/scientific Committee. Management of the activities connected to the execution of the Centre's functions is entrusted to the Ministry of Labour and Social Policies and the Family Policies Department, with prearranged relations with the Istituto degli Innocenti (Institute of the Innocents) . Among the CNDA's main tasks are the important activities of gathering and disseminating national and regional information, data and legislation on children's and adolescents' rights⁴⁶ and drafting the biannual paper on the status of minors in Italy and the government's Report on implementation of the CRC⁴⁷.

Inter-ministerial coordination does not, however, end with the National Observatory on Childhood. There, in fact, exist **other offices for coordination between institutions on specific themes**.

On the subjects of paedophilia and child pornography the following should be noted:

- ❖ the Inter-ministerial Committee for the Coordination of the Fight against Paedophilia (CICLOPE), established at the Presidency of the Council of Ministers – *Equal Opportunities Department*; reconstituted in February 2010⁴⁸ with the aim of coordinating activities for the prevention of and fight against paedophilia carried out by the different public administrations.
- ❖ the **Observatory for the Fight against Paedophilia and Child Pornography**⁴⁹ still operates within the *Equal Opportunities Department* with the task of acquiring and monitoring data and information relating to the activities, carried out by all the public administrations, for the prevention and repression of paedophilia. It is envisaged that it will make use of the collaboration of the National Centre for the Documentation and Analysis of Childhood and Adolescence⁵⁰.
- ❖ the **National Centre for the Fight against Pornography on the Internet**, based at the *Ministry of the*

39 Art. 2 para. DPR 103/2007.

40 Law no. 451 of December 23, 1997.

41 Cf. para. 3.2.

42 Cf. para. 3.4.

43 Art. 11 D.P.R. no. 103 of May 14, 2007 abrogated art. 2 Law no. 451/1997, and D.P.R. 369/1998.

44 Three times in 2003, twice in 2004, three times in 2005 and only once between 2006 and 2009. Gruppo CRC, 2° Rapporto Supplementare, November 2009, p. 23.

45 Established by Law no. 451/1997; currently enforced by DPR 103/2007.

46 Cf. 3.10.

47 For a complete listing of the CNDA's activities, cf. art. 1 para. 2 DPR. 103/2007.

48 Communication made by the Equal Opportunities Minister on January 25, 2010. www.governo.it/Notizie/Ministeri/dettaglio.asp?d=55875

49 Established by Law no. 38/2006, art. 20.

50 Art. 3, para. 1, Decree no. 240 of October 30, 2007.

Interior, was introduced with the task of gathering all the reports on sites circulating material to do with the sexual use of minors, making use of the Internet and other communications networks, as well as the companies and final beneficiaries of related payments.

In its **2006 Concluding Observations** on the implementation status of the Protocol on the Sale of Children, Child Prostitution and Child Pornography (OPSC) the UN Committee, while appreciating the establishment of CICLOPE and taking note of the establishment of the National Centre for the Fight against Pornography on the Internet, expressed concern “*that numerous efforts undertaken in this area are fragmented and might hamper the full implementation of the provisions enshrined in the Optional Protocol*” (point 7) and encourages Italy “*to improve coordination, both at central and local levels, in all areas covered by the Optional Protocol*” (point 8).

With regard to foreign children:

- ❖ The **Committee for Foreign Minors**, based at the Ministry of Labour and Social Policies, was established in 1999. It has authority on the subject of unaccompanied foreign minors from non-EU countries with the scope of supporting the activities of social services, assisting in repatriations and reunion of minors with their families in their country of origin or other countries, and coordinating the activities of the administrations involved in assisting minors who are in Italy temporarily as part of so-called solidarity visits promoted by agencies or associations. In 2009, the Committee for Foreign Minors was given further responsibilities on the subject of repatriation of unaccompanied foreign minors from European countries who engage in prostitution⁵¹.
- ❖ The **Central Coordinating Body (OCR)**, established in 2008⁵² at the Ministry of the Interior – “*having recognised the need to establish a coordination point at a central level that acts as a connector between all the entities interested in the management of unaccompanied minors present on Italian territory*”.
- ❖ The **Media and Minors Committee**, based at the Ministry of Economic Development, Communications Department, was set up to implement of its corresponding code. It effectively comprises fifteen members representing, in equal parts, TV broadcasting companies that are signatories of the Code, Institutions, and consumers.
- ❖ the **Commission for International Adoptions (CAI)**, established in 1999⁵³ at the Presidency of the Council of Ministers - Family Policies Department, to act as a connector on this theme.

Moreover, there are, even if they have specific expertise on children:

The **Inter-ministerial Committee on Human Rights (CIDU)**⁵⁴, is concerned with the coordination of governmental activities in the **promotion and safeguarding of human rights**. The Committee’s activity consists in the preparation – achieved by gathering information from the various ministries – of periodical reports on the measures adopted at a national level towards the application of international Conventions Italy is signatory to, including the CRC.

The **Inter-ministerial Commission for support to victims of trafficking, violence and serious exploitation**⁵⁵, established under Equal Opportunities Department of the Presidency of the Council of Ministers (Prime Minister’s Office), carries out policy-making and checks plans regarding resources for the execution of initiatives providing support for victims of trafficking and serious exploitation.

51 Law no. 94/2009 carried in “Misure in materia di ordine e sicurezza pubblica”, art. 1 para. 28.

52 Decree of the Minister of the Interior, October 8, 2008.

53 DPR no. 492, December 1, 1999.

54 Established by Ministerial Decree 519/1978 and redrawn by the Presidential Decree of the Council of Ministers on May 11, 2007.

55 Provided by art. 18 T.U.

The **National Disabilities Observatory**, provided by the Law ratifying the 2009 UN Convention on the Rights of Persons with Disabilities, has not yet been established, but the statute that defines its composition and operations appears to be at the approval process phase.

The **Commission for the Prevention of and Fight against Female Genital Mutilation Practices** provided for since 2006⁵⁶ and established in 2009⁵⁷, is presided by the Equal Opportunities Ministry.

The following were also established, but do not appear to be currently in operation⁵⁸:

- ❖ the **Coordinating Committee of Government initiatives against trafficking** of persons based at the Presidency of the Council of Ministers – Equal opportunities Department. It should be noted that in 2007 the Observatory on the phenomenon of human trafficking was also established as a place for the study and analysis of trafficking at the service of the Equal Opportunities Department;
- ❖ the **Coordinating Board between the Government and unions in the fight against the exploitation of child labour**, which has not reconvened since November 2007;
- ❖ the **Observatory on prostitution and associated criminal phenomena**, established in 2007 at the Ministry of the Interior – Public Security Department.

Finally, worthy of mention is the **National Observatory on the Family**, established at the Family Policies Department in 2007⁵⁹. It provides technical/scientific support and carries out studies, research, documentation, promotion and consulting on policies benefiting families and for the formulation of national, regional and local family policies.

At the parliamentary level operates the **Parliamentary Commission for Childhood and Adolescence**, composed of 20 senators and 20 MPs⁶⁰. With regard to activities it has carried out it should be noted, with particular reference to the subject of this study, that in 2007 it launched a fact-finding inquiry on the subject of institutional coordinating tools for policies affecting children and adolescents⁶¹ which, however, has not been finalized.

At present, no structured forms of coordination between the above listed bodies and the National Observatory on Childhood are foreseen⁶².

b) Coordination between central government and regional levels

In its 2003 Concluding Observations (point 10), the UN Committee took note of the “regular meetings of the State-Regions Conference (Conferenza Stato-Regioni) aimed at coordinating activities between the State and the regions and at monitoring the implementation of policies at the regional and national levels.”, and recommended that, in the application of policies for the promotion and safeguarding of children, such coordination should be strengthened, particularly through the State-Regions Conference, besides through the Observatory.

The two principal institutional contexts in which “**vertical**” coordination is carried out between central and regional/local levels are:

1. The **State-Regions Conference**, made up by Presidents of the Regions and of the Autonomous

56 Law no. 7, January 9, 2006.

57 Decree of the Equal Opportunities Minister; June 9, 2009.

58 Gruppo CRC, 2° Rapporto Supplementare, November 2009, p. 24.

59 Decree no. 242, October 30, 2007.

60 Law no. 451/1997 art. 1, paragraphs 2 and 3.

61 Cfr. Gruppo CRC, 3° Rapporto di aggiornamento sullo stato di attuazione della CRC in Italia anno 2006-2007, p. 18.

62 It should be noted as a sign of good practices, in this sense, that the CIDU invited the President of the CNDA to participate in upcoming meeting on the subject of minors' rights.

Provinces of Trento and Bolzano, is convened and chaired by the Minister of **Regional Affairs Department**

2. The **Joint Conference**, also chaired by the Minister for relations with the Regions. It is the joint seat of the State-Regions Conference and the State-City and autonomous **localities Conference**.

In 2004⁶³, at the **Presidency of the Council of Ministers**, the **Regional Affairs Department** was also established, to coordinate government actions on relations between the State, Regions and Autonomous Localities.

There are also bodies for the “horizontal” coordination between regional and municipal institutions:

- ❖ the Regions Conference was formed with the aim of improving agreement and discussion with the central government through the shared formulation of documents, created jointly by the whole “system of regional governments”. It redefined its organization in 2005, establishing 11 Working Commissions, of which one (Commission VIII) is devoted to social policies and comprises child policies.
- ❖ the National Association of Italian Municipalities (ANCI), is the official representative body of the institutions in municipalities, metropolitan cities and local authorities.
- ❖ the Italian Provinces Union (UPI) is an association that represents all of the country’s Provinces, with the exception of the Autonomous Provinces of Trento, Bolzano and Aosta.
- ❖ the National Union of Mountain Communities (UNCCEM) is an association that all of Italy’s mountain communities belong to, reorganised after the 2008 Budget, and in which over 10 million people reside.

Within the National Observatory on Childhood there are six regional representatives who are selected by the Conference of Presidents of the Regions and Autonomous Provinces of Trento and Bolzano⁶⁴, three municipal representatives selected by the ANCI, one representative of all of Italy’s provinces selected by the UPI, and one representative of the mountain communities selected by the UNCCEM. The representatives of institutions and associations interviewed for the purposes of this study revealed, as a weakness the mechanism of *referral* and *reporting*, which, in fact, renders the whole system of representation useless. It is instead clear that, as in other coordinating bodies, representation of Local Authorities is greater. In the National Family Observatory, for example, there are 13 representatives and there are plans to establish two bases created specifically to be in charge of coordinating participation of the Regions, the Autonomous Provinces of Trento and Bolzano, and Local Authorities.

The situation at a local level

The Regions and Municipalities enjoy autonomy in determining territorial jurisdiction of government bodies and in attributing to them responsibilities and authority. Consequently, the outlook is very varied, as can be easily gauged from the analysis of those Regions covered by this study.

In **Lazio**, several Head Offices operate within the Regional Social Department. The Social Services Office is in charge of planning and coordinating support activities provided to various categories of particularly vulnerable subjects, including minors. It is composed of seven areas which do not have a thematic capacity, but a “functional” one; so, each of them are concerned with minors, but through different aspects. Other Offices are concerned, with different capacities, with minors; among these are the Office of Social and Family Policies and the Office for Instruction, Scholastic/Educational Programming and the Right to Study.

63 In G.U. no. 64, March 17, 2004.

64 art. 2 comma 1 lett. d)

In the face of such fragmentation of responsibilities it is difficult to form a comprehensive picture of the subject-matter, programmes and resources devoted to and intended for children and adolescents at a regional level. Coordination between the different areas within each of the Offices and between the different Offices would be fundamental to operations, but equally difficult to achieve, considering the fact that the different Offices also head different councillorships and lack, or in any event have insufficient capacity to use the linking procedures currently envisaged, and are generally limited to the adoption of individual measures or regulations.

In the **Lombardy Region** the Head Offices that deal with themes relating mainly to children and adolescents are principally those for: Instruction, Education and Labour and for Family, Reconciliation, Integration and Social Solidarity. Within the latter, the Organising Unit for social and socio-medical services and interventions plays a particular role with regard to minors, having, among others, the task of coordinating ongoing interventions implemented under Regional Law no. 34/2004 “Regional policies for minors”, with particular reference to activities linked to the Regional Minors Observatory⁶⁵.

In Emilia Romagna, within the scope of the Head Office for General Health and Social Policies, there is a Service dedicated to minors.

Regional Law no. 14/2008⁶⁶ explicitly provides for specific forms of territorial jurisdiction and coordination in matters concerning children and adolescents, on both regional and provincial levels, such as “tools leading to the integration of policies” (chapter III). In fact, art. No. 21 proposes that there be established at each Province a technical coordination for children and adolescents (**Provincial Technical Coordination**). Art. No. 22 dictates that: the **regional coordination for the implementation of children’s and adolescents’ rights (para. I)**, based at the Presidency of the Regional Council, is a “consultative body of the Council itself, which also takes on responsibility for the coordination of regional adoptions (CRAD)”. It is expected that it will make use of the information made available by the Regional Observatory for children and adolescents and should also provide for coordination between Local Authorities and the tertiary sector; a **technical group for inter-sector integration in support of regional policies for children and adolescents (para. V)**⁶⁷, also established at the Presidency of the Regional Council, is made up by technicians within the Region. It should present reports triennially, and has, as its first task, prepared and published a social statement on today’s younger generations.

Based on the accounts gathered for the purposes of the study, this last coordinating project was the only one that appeared to be operational.

In **Sicily**, the Department for Family and Social Policies approves the Zone Plans and manages the funds provided by Law no. 328/2000 that are assigned to the health care districts on the basis of activities programmed by the Councillor’s Office and the Regional Council. A process aimed at redefining its responsibilities and tasks is currently underway and should also lead to the incorporation of issues relating to minor within a single office.

Even in the case of the **fifteen metropolitan areas** (“città riservatarie”) taken into consideration in this study, the situations are not characterised by homogeneity.

65 Regione Lombardia Bilancio Sociale 2008 p. 60.

66 Regional Law Emilia Romagna no. 14, July 28, 2008.

67 It substitutes coordination provided for by art. 4, Regional Law no. 10, May 24, 2004: “Participation of the Emilia-Romagna Region in setting up the national association of Italian Cities friends of children and adolescents CAMINA”.

At the **Municipality of Milan** there is, since 2006, a single Councillorship with a specific competency with regard to the subject of minors: the **Councillorship for Family, School and Social Policies**. This represents a change that has improved coordination, as the earlier Councillorship for Social Policies had been separate from that for educational services.

Three Head Offices are dependent on the Councillor's Office: 1. Family policies, which is concerned specifically with situations involving difficulties or hardship, and to which are connected socio-educational family services, an area in which "Operations Office 285"; 2. "Children's Services" and related sector; and 3. "Minors and youngsters", that comprises issues relating to elementary school-age children, integration of those with disabilities, and diversified types of support.

Operating at the **Municipality of Bologna** is the **Family Services Department**, which is subdivided into different sectors: social and healthcare coordination, educational services, housing, **establishing** means for social inclusion. It comprises the Office for protection and promotion that deals with cases involving protection of minors without parental representation, interfaces with legal authorities, including juvenile ones, follows through on sentencing, and manages the Foreign and Unaccompanied Minors Programme, SPRAR (and, in a wider scope, also the CIE). Prior to 2008, at the Municipality, a Office for Minors had been in operation, but following the decentralisation of social services at a neighbourhood level, with the aim of making them closer to users, management of these aspects with regard to minors were also passed on the heads of the nine neighbourhoods Bologna is subdivided into. What has emerged from the results of the survey conducted for this study is that, although having been a worthy decision in principle in view of the aims being proposed, in fact, the fragmentation highlighted weaknesses that derive from, on the one hand, the need to reinforce coordination between the various neighbourhoods, and on the other, the insufficient degree of specialisation at a neighbourhood level in safeguarding minors.

The protection office therefore coordinates with: the neighbourhoods, while a separate group deals with specific matters concerning minors and families; with educational services, made possible by the fact that they are located within the same department; with the Region, on the basis of coordination provided for in Regional Law no. 14/2008; and with the national level, as part of the coordination provided for fifteen metropolitan areas by ex Law no. 285/1997.

For the first two three-year periods of Law no. 285/97, that is, up until 2003, round tables involving all the subjects within the territorial networks had been envisaged. When Law no. 328 came into force work was directed at "social zones"⁶⁸, and each zone has a Zone Plan for health and social welfare. Bologna established a thematic board on minors, family and the protection of women, but since it has not decided on a redistribution of its budget (as was the case with the board in ex Law no. 285), it is merely a technical board.

What we see here is therefore a highly complex system, both in terms of planning and management.

Within the Municipality of Rome there are two Councillorships that are principally concerned with juvenile matters. There is the Councillor's Office for Social Policies, which is linked to Department for the promotion of social and healthcare services within which also operates a Task Force for Children and Families; and the Councillor's Office for Schools, Families and Children (working on policies promoting families and children, day care centres, and educational and scholastic policies), to which is linked the Educational and Scholastic Services Department, within which two Offices operate: "educational and scholastic services" and "promotional services for families and young people". Working within the latter

68 Bologna Municipality represents a social zone in its own right.

is the Task Force for the promotion of extra-curricular activities and projects in support of children, adolescents and families, which among other things, plans and carries out play/cultural activities and projects for children and adolescents (per Law no. 285/1997), assists with the socialization and integration of foreign children and those with social/environmental difficulties, schooling Roma children and promoting intercultural activities.

Furthermore, based at the Office of the Department for the Promotion of Health and Social Services, and in operation since 2001, is the “**Control room for the implementation of Law no. 285/1997**”, where three municipal administrative personnel work with support from a specialised organisation⁶⁹. The Control Room plays an important role in coordinating, monitoring, carrying out quality controls and evaluations of the projects completed by the Municipality with resources provided by Law no. 285/1997, as well as in the communication and diffusion of good practices. It coordinates principally with the Children Office at the Department for the Promotion of Health and Social Services, with the Office that is concerned with projects stemming from Law no. 285/1997 at the Councillorship for Educational Policies, and with authorities working on the implementation of Law no. 285/1997; it also reports to the 19 municipalities. As for organisation at a secondary level, it does not actually have any direct contact with civil society⁷⁰.

In the **Municipality of Catania**, the Financing Fund Office, at the **Directorate for Social Policy and the Family** of the **Councillorship on social policy and the family**, is responsible for programming, planning and managing the administrative accounts of services financed by monies provided by Law no. 328/2000 and Law no. 285/1997. It is particularly concerned with the formulation and dissemination of the Zone Plan envisaged by Law no. 328/2000, the management of funds allocated by Law no. 285/1997, and coordination between the two financing mechanisms, that constitute an important, recent innovation. In the context of the **Family Policy Services**, the **Children Office** and the **International Adoptions Office** also operate with authority on juvenile themes.

The survey conducted for the purposes of this study show that coordination on an internal level is guaranteed through meetings and formal exchanges of communication, as well as through monitoring activities and territorial social services. On an external level, coordination is carried out via two Boards: the Technical Group as per Law no. 285, in which public entities participate, and the Specific Board on children as per Law no. 328 in which participate, aside from public entities already referred to, also civil society representatives to whom the funds will be allocated.

An important role in the coordination regarding matters affecting children and adolescents on a regional level should be played by the **Regional Observatories on Children and Adolescents**. The Government's Report revealed that 15 out of the 20 Regions were interested in establishing such a body⁷¹. In reality, however, it seems that only 11 have given a concrete form to these specific concepts and, by April 2008, six were actively operational. The reduction in the number of observatories can be traced back to the absorption of the so-called «regional social observatories that has always led to the shutting down of characteristically child-oriented activities, if one excludes the purely statistical and demographic aspect»⁷².

Among the Regions covered in this study, Lazio is the only one that has nominated a Regional Ombudsman for Children.

69 Organisation for Assistance to Social Services and Interventions (OASI) www.oasisociale.it

70 Source: Rome Municipality official website www.comune.roma.it.

71 These structures were never established in the Autonomous Provinces of Trento and Bolzano, nor in the Regions of Liguria, Basilicata, Calabria and Sardinia.

72 «Minor» Observatories. Le esperienze regionali per la conoscenza dell'infanzia e dell'adolescenza, by Valerio Belotti in *Prospettive Sociali e Sanitarie* no. 20/2008

Conclusions

At national as well as regional and local levels, competence on the subject of children and adolescents has been extremely fragmented between numerous Ministries/Councillorships and, within these, subdivided into even more Head Offices and Offices/Services.

The accounts collected for the purposes of this study indicated that focussing these responsibilities in the head of an Office or identifying an Office that is in charge of linking them was most often desired (or noted as good practice where it did exist).

In the face of such complexity, the coordinating mechanisms that are put in place do not appear to be sufficient to guarantee an appropriate and efficient coordination.

For example, the National Observatory on Childhood does not possess powers and resources commensurate with its functions and co-management between the Ministry for Social Policy and the Family Policies Department has the effect of complicating and slowing down its operations. The coordinating activity carried out by the Observatory is also aimed at the drawing up the National Action Plan for Children, and not at the implementation of central and regional administrative policies and programmes. The accounts collected during this study reveal that the representation and role of the Regions and Municipalities are not adequate enough with respect to the current political and administrative set-up. Communication between central and regional levels needs to be improved and the dissemination of information both between the Regions represented, as well as between those not represented, at the Observatory needs to be guaranteed. The fact that there is a lack of coordination between the Observatory and other inter-ministerial bodies responsible for coordination on specific themes is very worrying.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to the Government**, to strengthen the National Observatory on Childhood's activity;
- **to individual Ministries**, to strengthen and guarantee coordination operations internally and between ministries to allow for the implementation of policies affecting children and adolescents;
- **to the Regions**, to encourage reflection on an institutional level aimed at identifying forms of coordination that are capable of strengthening coordination both between Regions as well as with central government on issues relating to children and adolescents.

3.4 Monitoring and Evaluation of Implementation

Introduction

In its General Comment no. 5, the UN Committee (point 45) stated with regard to the development of policies that, within all levels of government and, as soon as possible, there must be established “a continuous process of child impact assessment (predicting the impact of any proposed law, policy or budgetary allocation which affects children and the enjoyment of their rights) and child impact evaluation (evaluating the actual impact of implementation)” specifying that self-monitoring and evaluation is obligatory for Governments (point 46).

In the UN Committee's view (point 46) it is equally essential that independent monitoring, carried out “for example, by parliamentary committees, NGOs, academic associations, professional associations, groups of young people and independent institutions for human rights”. Finally, the Reports based on this analysis regarding the state of children's rights should be published and widely distributed and debate on the contents of such reports, carried out even in parliament, can provide the starting point for a wider public

commitment to implementation. Translations, including *child-friendly* versions, are essential in involving children and minorities in this process (point 50).

The situation at a national level

In its 2003 Concluding Observations, the UN Committee recommends that Italy should effectively check, assess progress made, and verify the impact of policies adopted regarding children (point 13 c).

Monitoring the implementation status of the CRC

The institution responsible for periodically delivering to the UN Committee the results of monitoring the implementation status of the CRC at a **governmental level** is the Inter-ministerial Committee for Human Rights (CIDU)⁷³. Considering the strictly governmental nature of such activities, there are no representatives from non-governmental sectors on the Committee. However, the Italian Committee for UNICEF is a member of the Inter-ministerial Committee for Human Rights and, in recent years, CIDU has intensified its contacts with civil society, organising meetings with the main NGOs operating in the sector to gain from an organic and constructive exchange on directions the Government could take on the subject of human rights when the main international deadlines approach⁷⁴.

The National Observatory on Childhood has the task of preparing the scheme upon the basis of which the Government writes up its Governmental Report on the state of the CRC's implementation, as per art. 44⁷⁵. Referents at the Ministry of Labour and Social Policies the Family Policies Department recognise their personal responsibilities in monitoring in that they hold joint presidency at the Observatory.

To help compile the latest government Report on the implementation of the CRC⁷⁶, the CIDU established a special work group to coordinate contributions from the following departments: the Family Policies Department, the Equal Opportunities Department, the Ministry of the Interior, the Ministry of Justice, the Ministry of Defence, the Ministry of Labour, Health and Social Policies, the Ministry of Public Instruction, the National Statistical Institute (ISTAT), the General Command of the Carabinieri Corps, the Italian Committee for UNICEF, and other administrative bodies. The National Centre for the Documentation and Analysis of Childhood and Adolescence has taken on a central role in this task, gathering material from all the central and local administrations, and its representatives have been invited to take part in some of the meetings. The report has been adopted by the CIDU, based on the draft approved by the Observatory, and transmitted to the UN Committee.

Monitoring the status of the CRC's implementation is also conducted by civil society and, in particular, by the 86 associations and organisations that make up the **Working Group for the Convention on the Rights of the Child (Italian Ngo Group for the CRC)**⁷⁷. The network's mandate, in fact, consists of guaranteeing an independent monitoring system, which is permanent, agreed and updated with regard to the application of the CRC and its Optional Protocols, as well as carrying out correlated advocacy actions, so as to obtain a greater and more effective application of the CRC and its Optional Protocols in Italy. The Supplementary Report and Annual Follow-up Reports produced by the Italian NGO Group for the CRC are available on line both on the network's website as well as on those of some of the individual associations that are a part of it, and they are also printed (5,000 copies in 2009)

73 See Paragraph "Coordinating implementation" 3.3.

74 For example, the Italian Group for the CRC, a network of associations concerned with monitoring the CRC is convened regularly to present its own annual monitoring report and when the periodic government one is being formulated.

75 Art. 1, para. 6-7 DPR 103/2007.

76 Third-quarter Government Report "Diritti in crescita" January 2009.

77 www.gruppocrc.net

and distributed free of charge on the occasion of national and local level public events, and also sent to the principal national and regional institutional interlocutors.

At a parliamentary level, it is the **Parliamentary Commission for Childhood and Adolescence** that has the task of “*making sure there is concrete implementation of international agreements and legislation relating to the rights and development of persons in the age of development*”⁷⁸, that is achieved thanks to the foreseen capacity to request “*information, data and documents on the outcome of activities carried out by public administrative entities and bodies that are concerned with issues relating to rights or the progress of persons in the age of development*”. In concrete terms, this activity is carried out through the course of fact-finding inquiries and hearing testimonies, the results of which are made public through the online publication of stenographic reports (if the hearings are formal) or summary (in the case of informal hearings). In addition, the Commission also makes use the possibility of carrying out field investigations (for example, a delegation was sent to Lampedusa, in Sicily, in 2008). With the amendment introduced by the law (Law no. 114/2009 art. 4 bis), the Commission is now further facilitated in exercising its powers of consultation, in that it interacts directly with all bodies and institutes for the promotion and safeguarding of children. Both the President and the Vice President of the Commission for Childhood and Adolescence have also recognised playing a role as individual MPs, in that they can make use of parliamentary tools at their disposal (i.e. Question time, parliamentary questions) to ask the Government permission to report to parliament.

Monitoring the impact of public legislation and policies on children and adolescents

A) Monitoring the impact of laws prior to their entering into force

When a bill is presented to one or the other Houses of Parliament it is assigned to the parliamentary commissions considered to be particularly competent in dealing with the contents of the bill so that it can begin to be examined; at the same time, the bill is also assigned to one or more Commissions when it is necessary to also obtain their opinion on the implications that the bill might have for the sectors within their fields of expertise. For example, the bill establishing a National Ombudsman for children and adolescents was submitted for examination by joint session of the Commissions Social Affairs and Constitutional Affairs, and also sent to other Commissions, including the Justice Commission so that it could express its opinion with regard to, among other aspects, the implications the function of reporting to magistrates might have.

It should be pointed out that the Commission for Children is bicameral, with policy purposes concerned with watchfulness and monitoring, and does not have powers to initiate legislation.

B) Monitoring the impact of policies and laws that have entered into force

1. by Parliament:

In its Annual Report, which it is obliged to present (at least annually) to both Houses of Parliament, the Parliamentary Commission for Childhood and Adolescence should not only list the activities carried out and results obtained, but also formulate observations and proposals about their effects, limitations and possible needs to adapt laws in force, particularly when needed to ensure conformity with European Union legislation and in reference to the rights provided for by the CRC⁷⁹. However the last Annual report approved by the Commission and available on the web-site is dated February 2006.

78 Law no. 451/1997 art. 1, para. 1.

79 Law no. 451/1997, art. 1 para. 4 and 5.

There are then the cases in which laws explicitly provide for the Government to be obliged to periodically report on the progress made towards their implementation.

For example, **art. 17 Law no. 269/1998** specifies that the Presidency of the Council of Ministers, through the Ministry in charge of carrying out coordinating and monitoring tasks with regard to civil services' activities, should present to Parliament a **Report on the state of implementation of Law no.269/1998** regarding the degree of progress made in developing initiatives for the prevention and fight against sexual abuse and exploitation of minors.

Art. 10 Law no. 285/1997 provides that, by September 30th of each year, the Minister for Social Solidarity (*now Minister of Labour and Social Policies*) must deliver a report to Parliament on the state of the law's implementation. The National Centre has published its monitoring of this law these past years, and has recently prepared a well-structured reflection the enforcement of Law no. 285/1997 over a ten-year period.

Also worthy of note, is the monitoring carried out for the implementation of the **“Special intervention plan for the development of a territorial system for socio-educational services”**, launched by the 2007 Financial Act. The Family Policies Department and the Ministry of Labour, Health and Social Policies, making use also of the National Centre for the Documentation and Analysis of Childhood and Adolescence, of the Institute of Innocents” and in collaboration with ISTAT, engage in such activities (the data are collected at a regional level and processed by the National Centre which has an ad hoc agreement on this specifically). ISTAT has provided data on day care centres thanks to the stipulation of a relevant convention with the Department. (the findings of the monitoring were published on the National Centre's website.)

2. by inter-ministerial bodies

What emerges from the government report is that given the progressive structuring of the system of services and the spread of numerous initiatives, Italy is assigning particular weight to the theme of assessment in order to determine the quality and efficacy of the processes and the practices, through the definition of guidelines, the establishment of services systems and the realisation of different awareness-raising and educational initiatives⁸⁰.

Another valuable tool is the National Observatory on Childhood's *Biannual report on the condition of children and adolescents in Ital*. The latest, covering 2008-2009, comprises contributions from the Observatory's working groups which, being subdivided by theme, investigated aspects and phenomena related to children and adolescents and to the system of services and assistance used to promote and safeguard children's and adolescents' rights in Italy. The work carried out by the Observatory also represents that basis for the formulation of the *National Action Plan for Children*, and is cited by those interviewed at ministries as a useful investigative and monitoring tool⁸¹. The report is available on the National Centre's website and hard copies can be ordered free of charge.

3. by individual Ministries on the impact of their own operations:

There are monitoring and evaluation units within some Ministries, but these are for the most part connected to the use of funds.

80 Third-quarter Government Report "Diritti in crescita" January 2009.

81 As with the priorities identified in the Action Plan against poverty, drawn up by Italy for the years 2006-08, which had been identified on the basis of results published in the 2005 Evaluation Report by the National Commission Inquiry into Social Exclusion and suggestions provided by the European Commission. Source: Third-quarter Government Report "Diritti in crescita" January 2009.

For example, within the Family Policies Department, in Office II (Family Policies) operates a Service (III) called “Promotion and monitoring of Family Policies”.

C) The central level’s monitoring of the impact of activities carried out on local levels

Central government administrations only carry out monitoring activities on local level actions in certain sectors.

In particular, they monitor **legislative activities**, to be able to verify conformity of regional laws and those of the Autonomous Provinces of Trento and Bolzano with the Constitution⁸² through work by the Presidency of the Council of Ministers – Regional Affairs Department⁸³. The Regional Affairs Department’s database system contains information on all the results of this legislative procedure, including the motives for any challenges.

The **Ministry of Social Policy** has identified monitoring and evaluation activities as one area in need of reinforcement, especially in light of the present reform of Article V of the Constitution, which has entrusted authority in the direct management of social services exclusively to the Regions, with regard to the production of regulations, and to Local Authorities the concrete management of services.

The fronts on which the Ministry has started up monitoring and evaluation activities can be seen as leading to two wide-ranging areas:

- ❖ the first concerns **degree of advancement in the building of integrated systems at a regional level**, that was set in motion in 2004 with the presentation of a mapping out of regional laws on social services, of regional social plans, and with monitoring and promotion of certain innovations in the organisation of services, such as those regarding the social portals;
- ❖ the second concerns **monitoring social services spending**, which is structured in operational terms through the realisation, within the next two years, of a **database**, in collaboration with ISTAT, on the system of financial transfers for welfare purposes, and in participation in an **inquiry into Municipalities’ social services spending**, in partnership with ISTAT, the Ministry of Economy and Finance and the Regions.

With the conclusion of the experimental phase, starting in July 2004 a census survey was begun with the aim of monitoring services, users and spending in all of Italy’s municipalities.

Regarding assessment of spending efficiency, with regard to minors, it emerges that **art. 9 Law no. 285/1997** provides that, by the 30th of June each year, the Regions and the Autonomous Provinces of Trento and Bolzano must present a report to the Ministry for Social Solidarity on the implementation status of interventions provided for by this law. The reports must also assess the interventions’ efficacy, **impact on minors** and society generally, objectives achieved and measures to be adopted to improve conditions affecting minors and their respective territories.

The situation on a local level

At local levels and, in particular, in the Regions and cities covered in this study, **monitoring of the implementation status of the CRC** has not been generally carried out. The only exception being the Lazio Region, where such activities are included among the tasks assigned the Ombudsman for Children that reports annually to the Regional Council (the body which is therefore responsible for monitoring); this report is then disseminated widely at a regional institutional level. It should also be noted that in

82 As provided by Articles 127 and 123 of the Constitution and by Constitutional Law no. 2/2001.

83 The only exception is the Region of Sicily, where regional laws are controlled by earlier the preventive system performed by the State Commissioner.

2001, Lazio Region's Childhood Observatory produced a Report on the implementation status of the CRC, available also on line⁸⁴.

The **PIDIDA Coordination**⁸⁵ periodically monitors regional laws and policies on the subject of children and adolescents through the formulation of a questionnaire that is sent to the Regional Councillor Offices for Social Policies of all of Italy's Regions, with the request that it be filled out, if possible, in collaboration with the departments and/or other Offices/competent agencies, including Regional Ombudsman for Children, where established. The replies received are then published in the Report entitled "Rights of the Child: an Analysis of Regional Policies. The Regions Speak"⁸⁶.

In the Regions and the "fifteen metropolitan cities" cities, a monitoring activity was instead carried out on the Zone Plans (Law no. 328/2000) and on the implementation status of Law no.285/1997, the findings of which are published on the National Centre for the Documentation and Analysis of Childhood and Adolescence's website⁸⁷ (updated to 2008).

In particular, in the Municipality of Rome, the monitoring system was started up by the "Control Room of Law no. 285/1997" and envisages the compilation, by bodies involved in the process, of proper monitoring forms. Based on information collected through the latter, combined with those gathered by administrative acts and verified by regular telephone interviews, periodical reports on the state of progress of implementation of the City Territorial Plan (Law no. 285/1997), are drawn up.

In Emilia Romagna, Regional Law no. 14/08 provides for a triennial report through which the Legislative Assembly exercises checks on implementation and assesses the results obtained. To this end, the Regional Council – making use also of the Regional Observatory for children, adolescents and young people, the technical group on integration between sectors, both defined by the same law, and of other coordinating bodies – presents a report to the relevant assembly commissions.

Children and adolescents are not involved in the monitoring processes.

Conclusion

Monitoring of **the implementation status of the CRC** is carried out in a systematic way, even by civil society, at a national level, but not at regional and local levels.

What is instead lacking is an active, systematic data-gathering survey, at national as well as regional and local levels, of the **impact of laws and public policies on children and adolescents**. The activities carried out by the Parliamentary Commission for Childhood and Adolescence is effectively limited in that it can not express opinions during the examination of bills; the possibility of impeding the entry into force of such legal provisions is therefore in fact very meagre and limited to the activities of individual MPs active within other Commissions. When administrative bodies do carry out a monitoring activity it has as its purpose a statement of accounts regarding funds allocated rather than an analysis of the change brought about by the entry into force of particular laws or how the implementation of specific policies may have improved or worsened the lives of children and adolescents. Even the Reports on the implementation status of the laws, where provided for and realised, are limited to containing a list of activities carried out, yet do not contain an assessment of these in terms, for example, of sustainability and efficacy. In the case of Law

84 Link pdf on line

85 www.infanziaediritti.it

86 Following experimentation in two Regions that led in 2005 to the production of the Report "Viaggio alla ricerca dei diritti dell'infanzia: i risultati nelle Regioni Veneto e Lazio", the Report was produced in 2006 and in 2007.

87 www.minori.it. The data is updated to 2008.

no. 285/1997 a careful monitoring activity is carried out, but on single projects that have been completed, not on the system-based action put into place on a territorial level.

It is not clear, however, just how all the tools and periodical reports provided for by the individual Laws and Plans are coordinated between each other.

The children and youngsters do not precisely know what the monitoring activity on the implementation status of the CRC consists of and, more generally, their opinions are neither requested nor taken into consideration when it comes to the laws and policies.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to the Government**, to establish within the workings of each administrative body a monitoring unit that assesses and analyses laws and public policies so that their impact on children and adolescents is also taken into consideration;
- **to Parliament**, to strengthen the role of the Parliamentary Commission for Childhood and Adolescence, providing it with the ability to express opinions during the examination of bills;
- **to the Regions**, to identify a body to which the task of monitoring the implementation status of the CRC and its impact on a territorial level can be assigned.

3.5 Data Collection and Indicators

Introduction

As the UN Committee recalled in General Comment no. 5 (point 48) “reliable data on children is an essential part of implementation”.

In order to be exhaustive and reliable, data collection needs to be subdivided, so that it is possible to identify any discrimination and/or disparity in the realisation of rights, and **detailed**, that is, in relation to all areas covered by the Convention, as well as **coordinated**, thus guaranteeing indicators that are applicable on a national level.

Regarding the **methodology that should be employed for data collection**, the UN Committee suggests collaborating with appropriate research institutes, but also emphasises (point 50) the fact that “in many cases, only children themselves are in a position to indicate whether their rights are being fully recognized and realized. Interviewing children and using children as researchers (with appropriate safeguards) is likely to be an important way of finding out, for example, to what extent their civil rights, including the crucial right set out in article 12, to have their views heard and given due consideration, are respected within the family, in schools and so on”.

Furthermore, the collection of data should not be an end in itself, but **helpful in the analysis and assessment** of advances made in the implementation of the CRC, in order to identify problems and provide information needed in the development of policies affecting children.

The situation on a national level

In its 2003 Concluding Observations, the UN Committee stated that it had welcomed “the establishment of the National Documentation and Analysis Centre for Children and Adolescents, which has gathered an impressive amount of data and research on children made available on its web site” (point 3 c) and appreciated “the efforts undertaken to improve data collection”.

However, the Committee remains concerned at the insufficient data in some areas covered by the Convention. The Committee is also concerned that data collection is still obtained on the basis of a family-centred approach rather than an approach in which the child is considered as an autonomous human being. The Committee is further concerned at the lack of coherence between the various bodies in charge of data collection, and in the various regions” (point 16).

In its 2006 Concluding Observations on the implementation status of the Optional Protocol on the sale of children, child prostitution and child pornography, the UN Committee reaffirmed its concerns about the **absence of a centralised system for the collection and analysis of key data** (point 13).

There does not currently exist, at a national level, a single body in charge of conducting data and information surveys. In 1989⁸⁸, with the aim of achieving a unified direction, organisational homogeneity and a rationalisation of activities involving the survey, formulation, analysis, dissemination and archiving of statistical data, was regulated by the Italian National Statistical System (SISTAN). It was envisaged that, aside from ISTAT, the Statistical Offices located at public authorities and bodies, at central and local levels, would also form part of SISTAN.

The data relating to areas prescribed by the CRC are collected by each of the Ministries within the areas of their expertise through the operations of one or more statistical Services/Offices located at one or more of their Head Offices.

The entity considered responsible, by the institutional contacts involved in this study, for the collection of available data on minors is the **National Centre for the Documentation and Analysis of Childhood and Adolescence** (referred to hereafter as Centre). Actually, in 1996⁸⁹ the Centre began to systematically organise, using fixed areas of inquiry, data on children and adolescents that had been published by official sources (i.e. Ministries and ISTAT) in a rather haphazard way. Thanks to this activity it became possible to form a picture of the situation and therefore see more clearly which areas were lacking data and information; this enhanced awareness also set off research studies aimed at filling the gaps discovered⁹⁰. Updates are also available to the public *on line*⁹¹.

In practice, the Centre’s statistical activity pursues three directions: Statistics, data collection, preparation of statistical tables, data processing, verification of sources; Research, ad hoc projects involving researchers, in cases where a decision is made on proceeding with research in an area lacking data (i.e. on behalf of the Ministry of Labour and Social Policies, a survey on participation was conducted by interviewing 22,000 school students using questionnaires); **Information-gathering Systems**, in cases where information is lacking, an information/training course is created involving entities, such as the Regions, that should be producing information.

As, for example, in the case of monitoring⁹² of the special day care centre plan, following which, in agreement with the Family Policies Department, a flurry of ad hoc information was set off, above all in relation to the management costs and criteria for admission to the centres; and with respect to the attempt to create an information system with a set of data available to all of the Regions. The Centre has therefore provided a type of training support by supplying technical assistance to southern regions.

88 D.Law no. 322/1989.

89 “I numeri italiani” Quaderno n. 5 in www.minori.it

90 For example, the survey on nursery, 2002. ISTAT did’t analysed those data since 1992. , l’indagine sui nidi d’infanzia svolta nel 2000. L’ISTAT non raccoglieva questi dati dal 1992.

91 www.minori.it/?q=tavole_statistiche

92 Available on <http://www.minori.it/?q=monitoraggi>

Or, as in the launching of a project (**SINBA**), in agreement with the Ministry of Labour and Social Policies, aimed at constructing an information system on actions carried out by territorial services aimed at children and adolescents (aged 0-17). The difficulties encountered by those interviewed for the purposes of the survey stem from the fact that are Regions that need to revise their information systems (obviously this refers to regions that have them) and some create difficulties, also because these systems would in any case time and energies need to be invested. The need to have a series of common information bases shared by all the Regions is therefore not felt by all.

The institutional contacts interviewed claim that the data gathered form the fact-finding foundation for experimentation and for the implementation of any support action or dispute, and are utilised both in planning activities as well as in regulatory activities, and not just by central administrations. There are, in any case, significant areas that either lack data⁹³ or they have not been updated.

The situation on a local level

Art. 21 of Law no. 328/2000 provides that not only the State but also the Regions, Provinces, and Municipalities must establish an **information system for social services** to “ensure a complete understanding of social needs, an integrated system of interventions and social services, and be able to quickly access the necessary data and sets of information required in the programming, management, and evaluation of the social policies”.

Furthermore, with particular regard to **data relating to children and adolescents**, the current regulations⁹⁴ set out that “the regions, in agreement provincial administrations and the autonomous provinces of Trento and Bolzano adopt suitable local intervention coordination measures for the collection and processing of all relevant data on the condition of children and adolescents within the regional context. In particular, by the 30th of April of each year, data must be acquired relating to: a) the social, cultural, economic, health and psychological condition of children and adolescents; b) financial resources and their allocation to intervention areas in the sector; c) a chart showing territorial services and resources set in motion by the private sector”.

Yet, despite the quite clear nature of the regulatory frame of reference, data and information collection on a local level in a social context and, particularly with regard to children and adolescents, continues to be applied without continuity or homogeneity within the areas.

Even the situation in the Regions covered by this study does not appear to be homogenous with regard to which **institutional entities are capable of carrying out such surveys**, whether there exists a **systematic data collection mechanism on minors**, and whether or not such data is to be made **available to the public**.

The Lazio Region has a proper data surveying system⁹⁵, but according to accounts gathered for the purposes of this study, it fails to operate very well. The Region’s Social Policies Department has, since a year, started up a data collection project on certain themes (such as, foster care) to meet requests for such information put forward by central administrations. The Office of the Regional Ombudsman for children and adolescents initiated a data and information collection project on minors living outside the family circle and published a report on it. The Municipality of **Rome** also carried out a survey on minors living outside the family environment using data from the communities, but it did not involve a systematic gathering of data. Furthermore, the data that were made available, intermittently and mainly via hard copy publications, were not collected in a coordinated manner.

93 Gruppo CRC, 2° Rapporto Supplementare, p. 30 pag.

94 Art. 2 comma 4 DPR 103/2007.

95 Lazio’s Information System for Social Services – SISS social Lazio.

In the **Emilia Romagna Region**, the systematic collection of data is carried out on the use of both early learning services, principally in response to requests coming from central administrations⁹⁶, as well as social services. The Regional Observatory periodically publishes all its data, including those on the juvenile population. The data are available on the Observatory's website, in the section dedicated to data. In particular, the municipality of Bologna supplies the Region with informational support based on the SISAM system, which however is "limited" to reflecting only on the Region's information needs, even though it has the advantage of collecting data in a scientific way, and therefore supplies reliable sets of information. The Municipality has thus created a new programme (GARSIA), with a greater focus on families than on minors, which has not yet been completed.

In the **Lombardy Region** the Regional Observatory on minors is the body responsible for carrying out surveys and analysis of phenomena concerning minors, both from a quantitative and a qualitative point of view. The information gathered for the purpose of this study revealed that a set of indicators of a demographic nature had been identified; these are analysed annually as is a set of indicators relating to minors in social services. The data are drawn from the Municipalities, Provinces and authorities managing services, while the demographic data are from ISTAT surveys (and date back, therefore, to the 2001 population census). Some, but not all, are available through the Observatory's website. In particular, indicators have been developed in **Milan**, and data collection is carried out within its own Service, led by a manager, even though the data collection cannot be considered strictly scientific, the data are in any case screened by the Municipality's statistical office and published on its website.

The **Region of Sicily**, while not having an Observatory for children and adolescents that can carry out this task⁹⁷, has developed an IT system of data collection on social policies⁹⁸, participating among other things, in convention with ISTAT, in an inquiry on social spending; it is not specifically concerned with minors, but contains a section devoted to them. In particular, the mechanism employed for the collection of data on minors in **Catania** has not yet been developed in a systematic way, even though it is apparently already being implemented. The data currently available to the Municipality, but not to the public, are supplied by the Authorities with which the Municipalities has signed agreements, aside from its own surveys (carried out by social services).

The survey conducted for the purposes of this study shows that the data gathered **are not always made use of in the development of social policies**. In the four Regions examined cases emerged in which the chief objective was limited to the delivery of these to central administrations, while in others the data were used as orientation tools in making choices with regard to the distribution of available funds rather than as a means of truly devising social policies (for example, in Lombardy, data on the numbers of children on waiting lists were taken into consideration to determine the amount of resources to allocate to day care centres).

With respect to the **regularity with which analysis of the data collected is carried out** and the attempt to determine **whether this activity has contributed to bringing about changes** the findings have not been unanimous. In particular, it appears that in cases in which this does not take place regularly it becomes difficult to establish whether it has contributed to promoting changes, while if analysis has been carried out regularly attention is paid to noticing any possible changes connected to it. The Local Plans (Piani locali), rather than the individual sets of data, are the object of careful analysis by local administrations, with the

96 The Emilia Romagna Region took part in the National Centre for the Documentation and Analysis of Childhood and Adolescents' pilot project on the costs of educational services.

97 The Observatory for the family inherited the tasks of the Observatory for children and adolescents; this was established by D.A. no. 2067 of December 13, 2000, but does not appear to be engaged in data collection.

98 Integrated socio-healthcare information system www.siris.regione.sicilia.it

aim also of identifying possible areas of intervention that are the most neglected and contribute to making them more balanced (such information emerged in Sicily and Milan). The analysis of available data in Catania brought about a change in planning phases: before, authorities and associations presented projects, while now it is the Municipality that identifies targets, needs, and writes up the project which is then opened up for public competition to determine which entity will carry it out.

Involving minors in the gathering of data and information on situations concerning them could be very important in building up a more complete picture of the situation, but does not seem to be carried out by institutions in a systematic and appropriate way, not even at local levels.

Conclusions

There is no systematic mechanism for data collection at a national level, but a systematic organisation of available data, run by the National Centre for the Documentation and Analysis of Childhood and Adolescence. The Ministries are responsible for data collection on minors concerning the CRC sector of their own particular expertise, and they arrange independently within their administrations the manner in which and the timing of how they carry out this activity. Surveys produced by the various Ministries are therefore neither systematic nor homogenous in terms of periods referred to, frequency of updating, etc.

Considering the high degree of fragmentation in responsibilities with regard to minors spread throughout various Ministries⁹⁹, it becomes clear just how much a strong coordination is needed not only during the phase of gathering available data, but also in their processing and updating. In the absence of a systematic approach to survey the data, in fact, become difficult to compare to each other or of any real use in transversal analyses.

A further weakness is provided by the lack of homogeneity between the systems used for data collection by the individual Regions and, in some cases, within the Regions themselves and between different municipalities, with comparable consequences which have been already mentioned with regard to central levels, aside from risking the creation of overlapping and duplicate sets of information.

Even the relations between data collection, analysis and the development of policies do not take place in a systematic and consequential way: the data collected are not necessarily analysed and used to help devise policies. The adoption of particular policies therefore takes place without regard for any data that has been collected.

Furthermore, minors are not systematically involved in the collection of data and information to be used in the development of policies.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to each Ministry**, to guarantee, within the context of its particular responsibilities, the availability of updated data on its own sector of expertise and to provide for their collection in areas where surveys have not yet been conducted;
- **to Parliament**, to annually monitor, starting with the contribution and analysis provided by the National Centre for the Documentation and Analysis of Childhood and Adolescence, the data collection activities of each of the Ministries that are concerned with the subject of children and adolescents, ascertaining that the development of proposed government policies stem from an analysis of the data;

99 Reference to paragraph 3.3 Coordinamento.

- **to the Regions**, to share between them, and at a central level, the development of a system of data collection on the subject of children and adolescents or to strengthen it, where a system is already in place, so as to allow for comparative analysis between them. On the basis of the latter the Regions will then be able to develop policies for children and adolescents that fully respect their rights, providing also for their direct involvement in such a survey process.

3.6 Achieving visibility of children in budgets

Introduction

In General Comment no. 5, the UN Committee states that “no State can tell whether it is fulfilling children’s economic, social and cultural rights “to the maximum extent of ... available resources”, as it is required to do under article 4, unless it can identify the proportion of national and other budgets allocated to the social sector and, within that, to children, both directly and indirectly” (point 51).

The UN Committee verifies that social and economic planning, the decision-making process and budgetary choices are to be made while primarily taking into consideration the best interests of the child, and that children, including, in particular, groups of children who are disadvantaged and emarginated be protected from the often negative effects that economic policies or financial downturns, through structural adjustment and market economy transition, can have on them.

The situation on a national level

In its 2003 Concluding Observations, the UN Committee recommended that Italy “*continue to increase, as far as possible, resources allocated to children and their family and undertake an analysis of all sectoral and total budgets across the State party and in the regions in order to analyze the proportion spent on children, identify priorities and allocate resources to the “maximum extent of ... available resources”.*” (point 9).

In Italy, not only was the so-called “budget for children and adolescents” – with disjointed items relating to the individual sectors – not put into effect, and therefore not made public, but it continues to be difficult to distinguish precisely what it corresponds to as a percentage of the national budget as a whole. The Government Report contains an estimate according to which this area would be allocated about **6.2-6.4% of GDP**¹⁰⁰. This does not in any case refer to recent data, as it dates back to **2005**, nor is it particularly reliable, beyond the limits declared by the Government Report¹⁰¹, also for reasons here below.

It represents, first of all, an **estimate calculated in an approximate way** based on a consideration of the three most relevant sectors in terms of state spending allocated to children and adolescents: the socio-welfare area, the healthcare area, and education and training. With respect to **social spending**, it is not possible to identify separate data relating to minors, but only to minors and families, and it is interesting to note just how minimal this percentage in relation to GDP: it would correspond to less than **0.05% of GDP**¹⁰². The calculation regarding **healthcare spending** devoted to minors starts with the fact that total healthcare spending was 6.3% of GDP and as minors represent 17% of the population, proportionately, the percentage directed at them would be **1.07% of GDP**.

¹⁰⁰ Government Report, p. 3.

¹⁰¹ It does not take into consideration, for example the services and resources allocated by Municipalities to families. Government Report, p. 4.

¹⁰² The Government Report reveals that the nation’s entire social spending in 2005 amounted to 1.1% of GDP and that of this 1.1% only a minimal part, equivalent to 4.4%, was directed at minors and families (amounting to, in fact, less than 0.05% of the total).

The most plausible estimate is that of current public spending on **training and education** (that amounted to, in 2005, 4.4% of GDP) as, inevitably, for the most part (at 93%, equivalent to **4.09% of GDP**) it can be attributed to services assisting minors.

Furthermore, not only are resources directed at children and adolescents not taken into consideration within the context of international cooperation¹⁰³, they are also overlooked in other sectors such as, for example, juvenile law.

Even though there is still no so-called. “budget for children”, it should be pointed out that at the end of 2009¹⁰⁴ a new budget layout was adopted, tried out already since 2008, that reformed the system that had been in force since 1978, organically intervening in the totality of the regulations and laws that regulate the definition of government tools used in public accounts and the State budget and, first of all, in the **Law on the budget**¹⁰⁵. The new budget layout allows one to consult, also online, the spending provisions according to the functional destination of financial resources, distinguishing between Missions (that represent the strategic functions and objectives pursued through public expenditure) and **Programmes** (that correspond to activities directed at pursuing objectives defined by the Missions). Such a budget layout, that leaves the Ministry that resources are earmarked for out of consideration, switches attention on expenditure data from where the responsibility lies (responsible administrative centres) to the aims of policies that allow the Government, Parliament and citizens to become better informed on the entire set of resources available to pursue specific institutional objectives¹⁰⁶. It is also worth noting that the **“Programmes” represent the new parliamentary voting units**, and that it is in any case possible to refer to the distribution of resources earmarked for individual Missions on Ministries in order to analyse the involvement of individual Ministries in objectives pursued by Budget Policies.

Of the 34 “Missions” into which the budget is subdivided two are particularly relevant to the subject of children and adolescents: the **“training”** mission and the **“social rights, social and family policies”** mission. The latter, which carves out 3.2% of total expenditure, is made up by eight programmes¹⁰⁷, of which one is devoted to “family support”; there is, however, no “minors” programme.

Within the “Justice” Mission there can be found a **“Juvenile Justice”** programme; other programmes (Youth sports, Health, Immigration, reception and assurance of rights), while not providing any specific indications, are presumed to also include funds destined to go to minors.

Since the budget law cannot introduce new levies or expenditures, the other principal legislative reference document to be examined to be able to reveal if and what amount is given annually to children through the allocation of national public resources is the so-called **Financial Act**¹⁰⁸.

A monitoring of annual Financial Acts 2007-09 carried out by civil society¹⁰⁹ revealed a progressive

103 It is considered as separate in the Government Report. See also para. 3.5. International Cooperation.

104 Law no. 196/2009.

105 The Law on the Budget is an instrument provided for by the Constitution through which the Government annually communicates the country's situation in terms of economic “deposits and withdrawals”.

106 Budget on the Web, <http://dwrgrweb-lb.rgs.mef.gov.it/DWRGSXL/cruscotto.jsp?crus=4&video=4>

107 Associations, social volunteer work and training, Fight against dependencies, Social protection in particular categories, Assurance of citizens' rights, Family support, Promotion of rights and equal opportunities, Social Planning, Welfare benefits and national financing of social spending, Promotion of social rights, social inclusion policies and support measures for persons in need.

108 The “Law on public accounting and finance”, the so-called Financial Act, must be presented to Parliament by the Government the 30th of September: Parliament has time to examine and amend it by the 31st of December. As of the 2009 Financial Act the scheduling refers to a three year period.

109 Italian Ngo Group for the CRC 2nd, Supplementary Report p. 16.

reduction in both the National Fund for Children and Adolescents¹¹⁰, and assigned only to 15 metropolitan cities (Città Riservatarie), as well as the National Fund for Social Policies¹¹¹, which in five years will be reduced respectively by about 10% and 40%.

In 2010, even the Fund for Family Policies suffered a cut of about 5%. On this subject, it should also be mentioned that the funds provided for the operation of the National Family Observatory correspond to the double of those earmarked for the National Observatory on Childhood and, while Funds have been explicitly allocated for the formulation of a National Plan for the Family, no such ad hoc resources have been scheduled for the formulation of the National Action Plan for Children¹¹².

The experts consulted for the purposes of this study declared that the opposition party monitors per expenditure item how much is devoted to children and adolescents in the Financial Act. In light of this analysis in 2010 there was, for example, a parliamentary question directed at the Minister of Education, asking that the resources allocated for 2009 for the scholastic integration of hospitalised students, those being treated as out-patients, and engaged in home-schooling be disbursed¹¹³; an action was also conducted against the amendment approved by the Budget Commission which eliminated the ceiling of 20 students per class for the disabled¹¹⁴.

Finally, it should be pointed out that in the **Economic Financial Scheduling Document (DPEF)**, which defines the Government's long-term economic objectives, there are no references to the impact of the economic/financial crisis with regard to minors nor to the consequential need to provide them with adequate means of protection.

The situation at a local level

Even at a local level it is not easy to identify exactly what the quota in the budget destined for children and adolescents amounts to. We are dealing with data that, although generally available in the context of more general spending entries, it is not formulated, broken up and made public in a systematic way. As with the national level, at the local level the public expenditure on children and adolescents also encompasses social and scholastic areas and therefore involves the two relevant Head Offices.

Some Regions and Municipalities publish a **Social Budget**, but these are the results of spontaneous initiatives following decisions made by individual administrations, within particular Legislatures, which are not always carried out annually. Three of the four Regions examined in this study (Lombardy, Lazio and Emilia Romagna) have produced Social Budgets. In Lombardy's 2008 Social Budget, there is a section devoted to Families and Minors. In December 2009, Emilia Romagna published its Social Report on the Younger Generations (aged 0-34). In its development of a financial statement presentation model it took into consideration the CRC and many of its general principles¹¹⁵. The report identifies four sections: security, independence, inclusion and participation that are set out in terms of policies that focus specifically on minors¹¹⁶. In Lazio's Regional Financial Law for the 2010 fiscal year there is a section

110 It was reduced by 30%.

111 It is the entity through which the State competes for funding needed for social spending. It is an indistinct fund, without spending restrictions, since all the financing linked to national laws that are in force in the field of social policies have been allocated, aside from the resources allocated by Law no. 328/2000; it also absorbed 70% of the preceding National Fund for Children and Adolescents under Law no. 285/1997 (equivalent to the reserve funds for the Regions and the Autonomous Provinces of Trento and Bolzano).

112 Italian Ngo Group for the CRC 2nd, Supplementary Report

113 The 156 schools and 195 hospital wards spread out across national territory enable students affected by serious illnesses that need ongoing care, between therapies/treatments, to attend lessons with the help of 604 teachers within the hospitals or in the home-schooling service. For 2009, the funds amounted to 3 million euro. La Repubblica, May 19, 2010.

114 La Repubblica, July 14, 2010.

115 Social Report, p. 6.

116 For example, security can relate to health (i.e. mother and child health, vaccinations); healthy life style (i.e. dietary education, promoting involvement in sports); family and reception (i.e.. fostering, adoption).

devoted to children and the resources allocated for this are divided between spending on education and spending on social services, but in this case spending is also indirect, that is intended for families.

The situation appears to lack homogeneity also with respect to the **criteria used to identify the sum intended for minors** in the budget's discussion phase. First of all, one needs to keep in mind that the resources destined to go to social areas are coming in part from national sources (National Fund for Social Policies) and in part from the Region itself. With regard to the National Fund for Social Policies, the Region decides on which sectors particular quotas are to be allocated.

In **Lazio**, priorities are established by the administrative board which submits them for approval to the Regional Council. The request for social welfare is put forward by the Councillorship for Social Policies, on the basis of suggestions made by the Department for social services, but for this is for the sector in general, not specifically for minors.

The National Fund's quota for social policies is substantially the same each year and corresponds to 11.5%. However, the surveys conducted for the purposes of this study show that the way this percentage is determined is not based on an analysis of data and information on the situation children and adolescents are in, but is actually the result of its static nature, that is, it tends to coincide with the quota that had previously corresponded with that given by the National Fund for children and adolescents. At a regional level interventions have followed past tendencies upon the basis of which a large part of spending for minors must be directed towards paying fees for youth communities, while the remainder goes to basic services (such as day care centres).

In **Sicily**, the regional budget's funds intended for social services are rather meagre and there does not seem to be a proper criterion employed in their apportionment, other than the past or "historic" type of reference, used also in Lazio: of the relevant funds provided for by Law no. 328/2000, in the years 2004-05 and 2006, the quota provisions were equivalent to 25% being intended for interventions in aid of minors. In the following scheduling, while not explicitly providing for an obligatory saving clause, the districts substantially held to this formulation. Despite the fact that there are initiatives regarding minors and families provided for by regional laws (R.L.10/2003) that fail to receive financing, it is believed that, on the whole, a certain care for minors can be discerned in the sum that the Zone Plans direct to day centres for minors, home schooling assistance and extra-curricular, socialising activities, while spending on community sheltered housing is provided for by the Region through a quota equivalent to 80%. The sets of information provided by the **Municipality of Catania** confirm this tendency: priority is given to community lodgings for minors in the face of which debt payments accruing over several years need to be made. In the social sector, the principal concerns are for foster care, spending on minors being tried in a court of law and destitute minors; there are also funds devoted to school policies.

In **Lombardy**, the social sector's priorities are defined on the basis of requests made by the Municipalities, recognised by the Region as authoritative entities, the result of which then needs to be communicated to the Region. In the distribution of the National Fund for Social Policies, a higher quota is allocated to the healthcare sphere and this would indicate a scarcer care for minors (spending for whom is largely allocated to the social sphere).

In **Emilia Romagna**, within the triennial social healthcare Plan (the latest being 2008-2010), there is a chapter devoted to children and adolescents that was later updated in light of the "programme for the promotion and safeguarding of rights, the protection and development of subjects in the age of

development and support in parenting”, provided for by Law no. 14/2008¹¹⁷. To apply this, in the face of the progressively contracting state funds being allocated to social policies, a resolution¹¹⁸ was adopted that provided for extraordinary financing by the Region, an exceptional measure in order to implement a programme. Further financing was also provided through a competition for younger generations¹¹⁹ the objectives of which are provided for in art. 14 of Law no. 14: “*Territorial Propositions for free time and educational opportunities*”.

At a local municipal level, care of minors appears to be more considerable, though it remains far from complete. The Municipalities need to draw up their budgets according to certified models, and featured in one such model is chapter (no. 10), relating to Social Activities, in which, however, there is no separate data on minors. Still, the two most important inquiries on Municipal social spending (one conducted by ISTAT and the other by IFEL – a foundation for the financing of Local Authorities to which the Ministry of Economy and Finance delegates the task of examining and assessing the situation in connection to the ICI – on behalf of ANCI) also take children into consideration.

Parts of the city of **Milan**’s Budget are concerned with children. To be able to understand if, and in which ways, priority is given to minors during the discussion phase of the budget process one would need, however, to examine the amendments that are presented once the municipal council meets to justify decisions made regarding the allocation of funds. The city of **Rome**’s new Social Regulatory Plan provides for a commitment to draw up a Social Budget, which would include a part dedicated to minors, even if it will not be able to take into consideration resources that end up at the Councillorship for educational policies. Currently, the criteria used in the allocation of funds are those of past or “historic spending”, that is, more or less what was decided in preceding years, and priority is not apparently given to minors, aside from in those areas considered obligatory, as in the case of funds directed at residential reception, communities providing emergency assistance, day centres considered obligatory as in “support services” as per art. 343 c.

The **Municipality of Bologna** publishes an annual social spending budget, alongside of which is that relating to spending for educational services.. In Emilia Romagna, sporadic instances in which social budgets at provincial and municipal levels were implemented have been recorded over the years¹²⁰.

With respect to the **participation of civil society and children in the identification of budget priorities** one can point out the experience in the **Region of Lazio**, which took place over the course of 2009 through a process called “Have Your Say on the Budget”. This represented the culmination of a journey of continual experimentation that, over the past five years, has studied tools and methodologies aimed at increasing citizens’ participation in the choices made by regional budgets, and improve the quality of the participation itself. 12,580 citizens of Lazio participated in this initiative, expressing their views; of these about 15% were youngsters aged 16 to 18.

117 Art. 9.

118 Resolution 378/2010

119 DGR 699/2009

120 Social budgets pilot projects were run in Emilia Romagna such as in Parma, Piacenza, Cesena, Copparo, Castel San Pietro Terme, Bologna.

THE EXPERIENCES OF CHILDREN:

SICILY: I am involved in the planning and management of the family budget, to which I also contribute, and in the schools budget, in my capacity as representative of the Institute. But my ability to contribute to decisions determining what the total school tax is to be is very limited. I also take part in meetings on youth projects organised by Arci, and in allocation of funds relating to these. I have not, however, been involved in any way at a municipal level.

EMILIA ROMAGNA: The lads at the youth municipal council have had experience dealing with budgets. For example, when it snowed this winter and the roads hadn't been cleared after a few days, they requested a meeting with the councillor to demand an explanation. The Councillor met with them and explained that it had snowed more often than had been expected, and that there were no further available for this purpose. He showed them the costs of the street- and pavement- cleaning. He's very interested in their general theme because, if the Youth Municipal Council request, for example, the building of a sports centre, a swimming pool, or an underpass, it would be linked to the municipality's available funds

The Regions have suffered significant budget cuts in social spending, largely through the reduction made in the National Fund for social policies. The first-hand accounts gathered for the purposes of this study do not however indicate much concern, but rather, an awareness that there will be a need to increase each Region's own resources to invest in this sector (for example, by concentrating spending in wider-ranging sectors, rather than in small investments¹²¹), because there are rights at stake, including those of minors, which cannot be guaranteed. Nevertheless, there are worrying signs that services will possibly see a hike in costs (such as in transportation and school lunches).

The choices that individual Municipalities adopt as a result of cuts are considered to be particularly relevant in determining the consequences they will have on minors.

Conclusions

On the basis of considerations expressed by the UN Committee in General Comment no. 5, point 51, one can affirm that Italy cannot claim to have fully realised minors' economic, social and cultural rights or to have undertaken "such measures to the maximum extent of their available resources", as stated in Article 4 of the CRC, since it is unable to identify the percentages in national and local budgets that going to the social sector, and to children in particular, whether directly or indirectly.

There is no mention in the Economic and Financial Scheduling Document of the consequences the financial crisis may have with regard to minors nor does it indicate any aims to identify adequate forms of protection for this category. Despite an appreciable effort made in recent years to increase transparency in the identification of the areas to which public spending is directed, it is unfortunately clear that there is no ad hoc budget heading devoted to minors and it is hoped that it will be in the next future. In fact, in this way, the rights of children and adolescents could be given adequate space even in the budget's discussion phase at a parliamentary level, and therefore not only – as is currently the case – within the family unit.

Furthermore, in the face of the apparent impossibility of allocating ad hoc resources from the central

¹²¹ For example, in Lazio, during the budget's adjustment phase, a significant sum was intended for the construction of new schools.

administration to the Regions for children and adolescents it will be important to be able to identify coordination mechanisms at not only at central levels, but also between the State and the Regions.

At local, regional and municipal levels, there are signs that greater attention is given to issues relating to children and adolescents. The accounts gathered from persons working at regional institutions showed substantial appreciation of the need to formulate a social budget which, where it already exists, places more emphasis on separate data relating to expenditure on minors. Nonetheless, the fact that the allocation of resources continues to follow an “historical” criterion, is certainly worrying: in this way one may risk failing to take the altered economic and financial situation adequately into consideration and to have to resort to ad hoc corrective interventions.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to the Government**, to insert the heading “children’s and adolescents’ rights” among the missions mentioned in the Budget, among those programmes that correspond to sectors of the CRC (education, health, justice, etc.);
- **to the Parliament**, to monitor provisions proposed by the Government in the Financial Act, both before and following their approval in order to identify what consequences they might have or already have had with respect to children’s and adolescents’ rights;
- **to the Regions**, to create a so-called “minors’ budget”, systematically gathering and making public, where already available, data related to public spending directed at minors; and to monitor, with the involvement of minors, the performance of public expenditure in relation to its consequences for children and adolescents, with the aim of using this knowledge in the regional budget’s discussion phase.

3.7 Collaboration with Civil Society

Introduction

In its General Comment no. 5, the UN Committee reiterated that “the State needs to work closely with NGOs in the widest sense, while respecting their autonomy; these include, for example, human rights NGOs, child- and youth-led organizations and youth groups, parent and family groups, faith groups, academic institutions and professional associations. NGOs played a crucial part in the drafting of the Convention and their involvement in the process of implementation is vital”. (point 58).

The UN Committee has also solicited Governments to supply NGO alliances and coalitions engaged in the promotion, protection and monitoring of children’s human rights non-executive support and to develop positive formal, or even informal, relations with them (point 59).

Furthermore, with respect to collaboration with youngsters and, more specifically, their involvement in decision-making processes affecting them, CRC article no. 12 needs to be always kept in mind, requiring that children’s opinions on any issue that affects them be given full consideration, clearly comprising the implementation of “their” Convention, as is repeatedly pointed out by the UN Committee (also in General Comment no. 5, point 57).

The situation on a national level

In its 2003 Concluding Observations, the UN Committee expressed concern about the lack of any structured coordination with NGOs (point 10), and recommended that Italy guarantee a closer and more active collaboration with NGOs that are working to protect children’s rights, especially at local levels (point 11 b) and encourage children’s participation in the National Observatory’s activities (point 11 c).

At the national level, the mechanisms that are being used to guarantee collaboration between government and parliamentary institutions and civil society are different and not always structured.

There are, for example, Ministries that have started up **Councils** involving associations so that they can debate with a selection of civil society representatives on specific themes they have competence and experience in.

In other cases, civil society representatives are called together to participate in ad hoc institutional **meetings** on specific cases or in the context of wider undertakings in the definition of intervention policies within a particular sector¹²².

For example, in the context of some planned coordination projects at the Presidency of the Council of Ministers – Equal Opportunities Department, on themes also relating to children and adolescents, the kinds of collaboration foreseen are different. The Inter-ministerial Committee on coordination in the fight against paedophilia (CICLOPE) provides for the *collaboration of the Council of associations*¹²³; the Inter-ministerial Commission for support to victims of trafficking, violence and serious exploitation can *invite* representatives of public and private bodies working on prevention, suppression and recovery in relevant sectors in to their meetings; at the Commission for the Prevention of and Fight against Female Genital Mutilation Practices, representatives from volunteer organisations, non-profit organisations linked to WHO-recognised healthcare centres, and from immigrant communities originating in countries where female genital mutilation is practised, *may participate* in meetings.

At a parliamentary level, the most widely used tool in collaborating with civil society is a hearing. It represents, for civil society, an opportunity for sharing data, information and to point out weaknesses and proposals regarding issues under debate in parliament, when on the subject of proposed bills to be examined by Commissions or by fact-finding inquiries. Formal and informal hearings are distinguished one from the other by the degree to which their summary reports are available. An example of this are the hearings held by the Parliamentary Commission for Childhood and Adolescence, which throughout a series of legislations has always put this mechanism into action.

On the subject children's and adolescents' rights, the most stable means of collaboration recognised and appreciated both by institutional government representatives as well as contacts at the associations involved in this study is the National Observatory on Childhood, which includes the participation of, among others, *“representatives of third sector or volunteer organisations working with children and adolescents, selected as decreed by the Ministry of Social Solidarity and the Ministry for Family Policies, up to a maximum of eight”*¹²⁴, aside from the Italian Committee for UNICEF¹²⁵.

Contrary to what is put forth by the CRC's art. 12 **consultations with children and adolescents** not only fail to take place regularly, but is not even taken into consideration by the institutions involved as one of the means through which a deeper understanding of certain problems could be gained, not even when children are directly concerned.

The presence of children and adolescents within institutional contexts are limited to the celebration of

¹²² This is, for example, a practice established by the Department for Cooperation and Development of the Ministry of Foreign Affairs, used both in the updating of international cooperation guidelines on minors as well as on the disabled.

¹²³ However, despite having been designated in 2005, the associations have never been convened. Source: CRC Group, no. 2. Supplementary Report.

¹²⁴ Art. 2, para. 1. U, DPR 103/2007.

¹²⁵ Art. 2, para. 1H, DPR 103/2007.

anniversaries that concern them (November 20th, for example) and has a purely “decorative” value, so much so that their contribution does not even appear in the preparatory documents upon which decisions are made, and they are not acknowledged in any way.

The situation at a local level

Even at local levels the mechanisms used to guarantee collaboration between institutions and civil society are different but, yet again, unstructured.

With reference to the Regions covered in this study, it came to light that in **Lombardy** this is carried out for the purposes of drawing up the Social Budget¹²⁶, and with particular reference to issues affecting minors, within the context of the Regional Observatory for children and adolescents, where civil society representatives also take part. Furthermore, there are consultation boards with the third sector operating at district levels, known as the social planning sphere (formulation of the Zone Plan requires there to be consultation with the third sector), at the ASL level (territory of the Provinces), and regional levels through the Permanent Third Sector Forum. According to the representatives of the associations interviewed for the purposes of this study, the degree of the boards’ efficacy will depend on both the administration that convenes and manages them as well as the associations that comprise them; the latter play a working and decisive role only if they dedicate and organise themselves in this sense (i.e. contribute to the drafting of documents and making suggestions). Children, on the other hand, do not participate in these boards.

Emilia Romagna also has a regional observatory, but it does not involve any associations or local entities. In this Region, the context within which collaboration between institutions and civil society takes place is that of the third sector’s Permanent Regional Forum. The “child” sector is located within the socio-healthcare area, so any references to civil society are therefore those linked to experience and competency in this branch¹²⁷. Assessments made by the associations in this body are particularly positive with respect to both its effectiveness as well as to the fact that suggestions provided by civil society in that context are generally taken into consideration by the Region (some example: in the social/healthcare Plan; Law on the younger generations). This positive aspect is also seen in the consideration given also to the opinions of youngsters: within Forum, a sub-group has been formed by youngsters (educational routes, youth centres, job training, cultural pursuits), which has been consulted on numerous occasions by the Region, and is due to obtain formal recognition as interlocutor in the consultative and defining phases of the Region’s development of youth policies. Involvement by civil society members or groups with experience in specific sectors also takes place through the organisation of periodical meetings, when new legislation is being drawn up (for example, with the objective of drafting Directive 846/2007 on the subject of foster parenting and reception in communities devoted to children and youngsters).

In the **Lazio Region** and in **Sicily** there are no Councils on minors, but issues regarding minors debated within theme-based Councils (for example, those on the disabled, immigration, etc.) provided for to assist in the formulation of Zone Plans. Furthermore, in Lazio, 10 work groups on different issues linked to fostering are currently active and will contribute to the definition of new guidelines on foster care.

Finally, it should be pointed out that the types of collaboration with civil society that are valued the most by the institutions involved in this study have principally to do with the organisation of events, seminars and conferences, while the contexts for consultation that are currently active are considered insufficient in terms of their lack of systematic organisation, structuring and quality. There is agreement on the view that participation by secondary level organisations is a good practice.

¹²⁶ Lombardy Region, Bilancio Sociale 2008, pag. 81.

¹²⁷ Exception: adoptions as a function of CRAD coordinated Adoption Agencies, superseded by provision of new Law 14.

Among the forms of **participation by youngsters in institutional decision-making processes** that are considered most relevant on local levels are the **Municipal Youth Councils (CCR)** and **Student Councils**.

The CCRs, in particular, are bodies in which minors' participation aims to familiarise them with state institutions and educate them about the country's democratic life. Currently, there are 151¹²⁸ CCRs in Italy. In many cases they were started up thanks to government support, provided through Law no. 285/1997, and are promoted on a local government level by the individual Municipalities¹²⁹. However, there is no uniformity between them from an organisational point of view, and there is no institutional intervention in place that could provide coordination and support in these experiences or for the entities that promote them¹³⁰.

The institutional representatives who were interviewed for the purposes of this study claimed not to make use of collaboration with CCRs and, more generally, that they did not regularly consult with children and youngsters.

Youngsters' opinions are eventually sought by institutions to assess the services offered to them¹³¹ and hear their views on the functioning of these, without however giving them the opportunity for any further corroboration.

THE EXPERIENCES OF CHILDREN:

SICILY: On the last day of school we were given questionnaires in which we were asked to assess the quality of the services offered. There was never any discussion of the responses we supplied. This year, many of us didn't even bother compiling them and simply tore up the sheets.

The associations involved in this study are accustomed to consulting youngsters when it comes to carrying out various initiatives, but, in practice, their opinions do not always appear in the preparatory documents upon which decision-making discussions are based, even though they are aware that this should not be the case. Whatever corroboration they do receive consists of a concrete answer to the needs they have expressed.

Conclusions

With respect to collaboration with civil society it appears, at both national and regional levels, that the mechanisms employed in guaranteeing collaboration between institutions and civil society are disparate and not always structured. Among the chief weaknesses highlighted by the institutional contacts involved in this study regarding relations with civil society is the difficulty faced in identifying representational mechanisms in civil society that can guarantee qualified participants.

In any case, albeit it need of improvements, collaboration between institutions and civil society does exist, even if it is not often formalised.

128 Census taken the association "Democrazia in Erba" in Rome: www.politichegiovani.it/consiglio_comunale_ragazzi.htm

129 Government Report, p. 136.

130 CRC Group 2°, Supplementary Report p. 42.

131 This is how determinations are reached, for example, by the Municipality of Catania.

On the other hand, the **participation of youngsters** in institutional decision-making processes, even if relating to issues affecting them, is something that remains a serious gap within the governmental system in Italy, both at national and local levels. This becomes all the more serious, when one considers that in the sphere of consultations with civil society the representatives who participate are for the most part entities managing services directed at minors and therefore may, at times, be more prone to promote their own interests first, rather than the rights of minors.

For this reason, motivating the institutions to fully and effectively implement what is contained in art. 12 of the CRC must be considered a priority.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to Parliament** and, in particular, to the Parliamentary Commission for Childhood and Adolescence, to foster and facilitate the participation of children and youngsters in representational hearings in the field of fact-finding inquiries and draft bills relating to issues that affect them;
- **to the Government**, to support, also financially, the carrying out of consultation processes with children and youngsters at an institutional level, above all in the context of coordinating bodies on themes relating more directly to children and adolescents, and therefore, first of all, in the National Observatory on Childhood;
- **to the Regions**, to involve children and adolescents, and associations that are exclusively concerned with the interests of minors, in the thematic work groups on issues covered in the drafting of Zone Plans.

3.8 International Cooperation

Introduction

Article 4 of the CRC commits States that have ratified the Convention, to adopt all measures necessary to implement the rights recognised also in the framework of international cooperation, to the maximum extent permitted by the resources available to them.

In its General Comment no. 5 (point 61), the UN Committee points out to Party States that the “Convention should form the framework for international development assistance related directly or indirectly to children and that programmes of donor States should be rights-based”.

The Committee expects “States parties to be able to identify on a yearly basis the amount and proportion of international support earmarked for the implementation of children’s rights”.

Finally, the UN Committee “takes note of and encourages efforts being made to reduce poverty in the most heavily indebted countries through the Poverty Reduction Strategy Paper (PRSP). As the central, country-led strategy for achieving the millennium development goals, PRSPs must include a strong focus on children’s rights. The Committee urges Governments, donors and civil society to ensure that children are a prominent priority in the development of PRSPs and sector wide approaches to development (SWAs).” (point 62).

The situation at a national level

In its 2003 Concluding Observations (point 8), the UN Committee had welcomed “the adoption of the Guidelines of the Italian Co-operation on Children and Adolescent Issues offering a vision of the

development of the younger generations as an area of investment. Nevertheless, the Committee remains concerned that the Convention is not implemented to the “maximum extent of the available resources”, as stipulated by article 4 of the Convention” .

The carrying out of initiatives to safeguard and promote the fundamental rights of children, adolescents and youngsters remains one of the priority sectors of intervention in Italian international cooperation. As in the 2009-2011 triennial Strategic Plan, so also with the 2010-2012 three year period, the Ministry of Foreign Affairs – Head Office for Development Cooperation (DGCS) plans to carry out initiatives aimed at reducing exploitation of child labour, sexual exploitation, prostitution and female genital mutilation of children and adolescents, as well as activities in support of juvenile justice systems that take into account the particular needs of minors and aim at their social reintegration, and in safeguarding child and adolescent soldiers and victims of armed conflicts¹³². During 2009, the DGCS financed a conference of the theme of child victims of conflicts. “*Children and youngsters affected by armed conflicts: listen, understand, act*” was organized in collaboration with, among others, the Office of the Special Representative of the Secretary-General for Children and Armed Conflict.

Even the intention of proceeding with another updating of the “Guidelines for Italian Cooperation on the Theme of Minors”, adopted in 1998 and updated in 2004¹³³, reveals a particular attention given by the Italian government to the rights of children and adolescents within the context of cooperation with other countries. In 2008, an internal Working Group on the Application of the above-mentioned Guidelines was created at the Central Technical Unit (UTC) of the DGCS, with the task of defining policies and programmes that promote minors’ rights. This group took care of the contribution made to programmes on the safeguarding of minors’ rights in the annual report that is delivered to parliament on the implementation of cooperation for development policies.

However, in practice, the **approach** taken by Italian cooperation continues to be based on needs – rather than human rights and, particularly the rights of children and adolescents – in developing countries¹³⁴.

As for the **resources** intended for international cooperation, there has been little progress made in recent years: Italy still ranks among the lowest places in the listings of donor countries in terms of percentage GDP destined for development aid, amounting only to 0.17% of GDP, and will therefore be unable to meet the European allocation target of 0.5% of GDP by the end of 2010¹³⁵. The 2009 Budget 2009¹³⁶ confirms a 56% cut, equivalent to 411 million euro, in the availability of the Ministry of Foreign Affairs’ cooperation budget. The data relating to resources directed to international cooperation initiatives in aid of children and adolescents has, in recent years, shown a slight, but progressive, increase from €18,356,317.54 in 2006 to €17,849,369 in 2007 and €19,234,752 in 2008¹³⁷.

The DGCS send a yearly report on the implementation of International cooperation to the Parliament. It includes also a specific part dedicated to children’s rights programme .

The situation at a local level

In the context of Italian international cooperation, the Regions and Local Authorities are gaining an increasingly higher profile. The laws in force provide for development cooperation both as an integral part

132 Italian Cooperation in Development, Linee Guida e indirizzi di programmazione 2010-2012, pp.6-7

133 Available at www.cooperazioneallosviluppo.esteri.it/pgdcs/italiano/LineeGuida/pdf/LineeGuidaMinori.pdf

134 CRC Group, 2nd Supplementary Report, p. 21.

135 OECD, Peer Review-Italy, 2009.

136 Law no. 203/2008, table C.

137 Italian Ngo Group for the CRC, 2nd Supplementary Report, p. 21.

of Italian foreign policy¹³⁸, but also that cooperation activities may be implemented through the use of Regions', Autonomous Provinces' and Local Authorities' public structures¹³⁹.

Following the reform of Article V of the Constitution, this principle was further defined by stating that *“the Regions and Autonomous provinces (...) may conclude, with local government entities within another State, direct agreements in aid of economic, social and cultural development and (...) may, likewise, conclude with other states executive accords and applications to international accords (...) or accords of a technical/ administrative nature, or of a planning nature aimed at facilitating their economic, social and cultural development”*¹⁴⁰.

As of 1993, the Municipalities and Provinces have been able to intend a quota of their own budgets to support cooperation for development programmes and international solidarity interventions¹⁴¹.

Cooperation actions carried out by local government institutions in the context of partnership relations with local institutions in countries being cooperated come under the designation **“decentralised cooperation”**.

Following the Agreement between the State and the Regions¹⁴² on the subject of international relations, ratified December 18, 2008, *Guidelines on decentralised cooperation* were approved in March 2010. The latter document meant to supply a more precise framework on the subject of prominent international activities conducted by the Regions, evaluating the decentralised cooperation implemented together with the Head Office on Cooperation and Development at the Foreign Affairs Ministry (MAE), in conformity with Italian foreign policy. There also another Regional coordinating body, which is the Inter-regional Observatory on cooperation and development.

Almost all of the Regions are provided with laws on the subject of international cooperation, but they do not all contain an explicit reference to children's and adolescents' rights¹⁴³. Furthermore, in response to a questionnaire sent by NGOs, 13 Regions¹⁴⁴ declared that they carried out decentralised cooperation actions for development, but only 9¹⁴⁵ stated that they had invested a part of their resources in projects aimed at safeguarding maternal health, children and adolescents¹⁴⁶.

As for the situation in the Regions covered by this study, it appears that the **Region of Lombardy** was the first to provide for a law on the subject of international cooperation¹⁴⁷, and among the cooperation for development projects it finances a number of projects concerned with children and adolescents, mainly in the social/healthcare field¹⁴⁸.

In 2000, the **Region of Lazio** adopted a law that aims to facilitate the regional community's increased participation in a co-development context with local communities in partner countries in activities focusing

138 Art. I para. I, Law no. 49/1987.

139 Art. I para. 4, Law no. 49/1987.

140 Art. 6, Law no. 131/2003.

141 Art. 19 Law no. 68/1993. The foreseen quota corresponds to amounts up to 8 per thousand of the sum of the first three current credit shares of their budgets.

142 Presidency of the Council of Ministers, Regional Affairs Department, the Ministry of Foreign Affairs, the MISE, the Regions and the Autonomous Provinces of Trento and Bolzano. 18th December 2008.

143 Pidida Coordination, Verso delle Linee Guida regionali sulla cooperazione decentrata per l'infanzia e l'adolescenza, 2006.

144 Emilia Romagna, Friuli Venezia Giulia, Liguria, Lombardy, the Marche, Molise, Piedmont, Tuscany, Trentino Alto Adige - Autonomous Province of Trento, Trentino Alto Adige - Autonomous Province of Bolzano, Umbria, Val d'Aosta, and Veneto.

145 Emilia Romagna, Friuli Venezia Giulia, Liguria, Lombardy, the Marche, Molise, Piedmont, Trentino Alto Adige - Autonomous Province of Trento, and Umbria.

146 Pidida Coordination, Rapporto 2008 - Diritti dell'infanzia e dell'adolescenza. L parola alle Regioni.

147 Regional Law no. 20/1989 "La Lombardia per la pace e la cooperazione allo sviluppo".

148 Pidida Coordination, Rapporto 2008 - Diritti dell'infanzia e dell'adolescenza. L parola alle Regioni. Scheda 3.3. Lombardia.

on international cooperation and solidarity¹⁴⁹, and particularly, in promoting and disseminating the rights of children and adolescents¹⁵⁰, not just through cultural and informational initiatives, but also through decentralised cooperation projects.

As of 2002, the **Emilia Romagna Region** has also had ad hoc regional legislation¹⁵¹ that aims, among other things, to improve the condition of children and to fight against the exploitation of minors¹⁵². The decentralised cooperation projects it undertakes are for the most part of a social nature¹⁵³. It has a Regional Office that carries out, among other tasks, the functions required in the coordination of these activities¹⁵⁴ and maintains a website dedicated to international decentralised cooperation¹⁵⁵.

The **Region of Sicily** does not yet have a regional law with reference to the subject decentralised cooperation for development, but does in any case operate in the field of development cooperation on the basis of a series of initiatives, thanks above all to the recent establishment of the “Special Office for decentralised cooperation and development and for international solidarity”, based at the Presidency of the Region¹⁵⁶.

Conclusions

Despite the fact that Italy’s overall investment in international cooperation is inadequate with respect to the commitments made at European and international levels and does not meet the objectives set by these bodies, it is commendable that children and adolescents continue to form what is considered a priority sector for Italian cooperation, and that the investments in this area have not suffered cutbacks.

At a local level, although there are regional laws on international cooperation that refer to the rights of children and adolescents, guidelines based on those adopted at a national level on the subject of minors are lacking.

In any case, the involvement of children and adolescents in the development and evaluation of policies and programmes on international cooperation devoted to them is not envisaged, neither at a national nor a regional level.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to the Government**, to actively commit to the implementation of the Guidelines on international cooperation on matters regarding minors, while continuing to increase the financial resources directed to this sector to the maximum extent permitted by the resources available to them;
- **to Parliament** and, in particular, to the Parliamentary Commission for Childhood and Adolescence and adolescents, in conformity with the powers vested in them, to monitor the resources intended for children and adolescents in the context of international cooperation and the impact that projects financed by them have on children and adolescents;

149 Regional Law no. 19/2000 “Iniziative regionali per la cooperazione allo sviluppo, per la collaborazione e la solidarietà internazionale”.

150 Art. 1 para. 2 d, Regional Law no. 19/2000.

151 Regional Law no. 12/2002 “Interventi regionali per la cooperazione con i paesi in via di sviluppo, la solidarietà internazionale e la promozione di una cultura di pace”.

152 Art. 3 para. 2 d, Regional Law no. 12/2002.

153 For a complete listing: www.spaziocooperazione.decentrata.it/archivio_progetti/index.asp

154 Emilia Romagna Region – Head Office for Local government Planning and for European and International Negotiations, Agreements and Relations.

155 www.spaziocooperazione.decentrata.it

156 Source: <http://cooperazione.formez.it/sections/regioni/sicilia>

- **to the Regions**, to give greater attention to children and adolescents in the programming of international cooperation initiatives, including the carrying out of decentralised cooperation projects, while also encouraging children and adolescents to participate in the planning, accomplishment and evaluation of these.

3.9 Independent Human Rights Institutions

Introduction

As the UN Committee recalls in **General Comment no. 2**, the creation of **independent national institutions for human rights concerning the promotion and protection of rights of the child**. Must be considered that “the establishment of such bodies to fall within the commitment made by States parties upon ratification to ensure the implementation of the Convention and advance the universal realization of children’s rights” ” and falls within, in particular, the area of application of the CRC’s article 4.

The UN Committee also made clear (point 6) that “a broad-based NHRI should include within its structure either an identifiable commissioner specifically responsible for children’s rights, or a specific section or division responsible for children’s rights” considering the fact that “children’s developmental state makes them particularly vulnerable to human rights violations; their opinions are still rarely taken into account; most children have no vote and cannot play a meaningful role in the political process that determines Governments’ response to human rights; children encounter significant problems in using the judicial system to protect their rights or to seek remedies for violations of their rights; and children’s access to organizations that may protect their rights is generally limited” (point 5).

As reiterated by the UN Committee in General Comment no. 5 (point 65) independence is an essential element and depends on “adequate infrastructure, funding (including specifically for children’s rights, within broad-based institutions), staff, premises, and freedom from forms of financial control that might affect their independence.” ” (point 10, General Comment no. 2).

Furthermore, the independent national institutions for human rights should consult among themselves and cooperate with regional, national and international institutions with expertise in issues regarding children’s rights, and directly with children, ensuring direct contact with them, involving and consulting them in appropriate ways. In this sense, to facilitate youngsters’ participation in matters that concern them, the UN Committee suggests, for example, that Children’s Councils should be created. These would function as consultative bodies and would be geographically and physically accessible to all children (point 15), so as to also take into consideration individual expressions of views and petitions presented by them and to carry out inquiries, including those requested on behalf of, or directly by, the children (point 13).

Finally, independent national institutions for human rights play an important role in raising awareness within the Government and of public opinion on the laws contained in the CRC¹⁵⁷ and the monitoring of the CRC’s implementation¹⁵⁸.

The situation at a national level

Unlike many countries in the world and almost all European countries, Italy has not yet taken steps to establish an independent national institution for human rights, nor a specialised Ombudsman for the protection and promotion of children’s and adolescents’ rights. Despite repeated recommendations

¹⁵⁷ Point 19 m, and see paragraph 3.10.

¹⁵⁸ Point 20, and see paragraph 3.4.

issued to Italy by various United Nations bodies¹⁵⁹, to attend to setting these up and despite the Italian Government having explicitly taken on this task before the UN General Assembly as a candidate for membership of the UN Human Rights Council for the three-year period 2007-2010; Italy took on and completed this mandate without having arranged for the establishment of an Independent Commission for Human Rights. Repeatedly, over the course of various successive government administrations of recent years, various institutional representatives have proclaimed, above all concurrently with events celebrating November 20th, the establishment of national Ombudsman for children and adolescents as an imminent reality¹⁶⁰.

THE EXPERIENCES OF CHILDREN:

EMILIA ROMAGNA: The children consulted in Emilia Romagna didn't know whether or not there was a Ombudsman at a national level, but they guessed there was one and were very surprised to find out that, instead, there was none in Italy.

In its 2003 Concluding Observations on the status of the CRC's implementation in Italy, the UN Committee remains concerned that *"there is no central independent mechanism to monitor the implementation of the Convention"* and recommends that Italy complete *"its efforts to establish a national independent ombudsman for children, if possible, as part of a national independent human rights institution (see the Committee's General Comment No. 2 on the role of independent human rights institutions), and in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (The "Paris Principles") (General Assembly resolution 48/134, annex), to monitor and evaluate progress in the implementation of the Convention"* (point 14).

The same observation and recommendations were reasserted by the UN Committee in its 2006 Concluding Observations with regard to the Optional Protocol on the sale of children, child prostitution and child pornography (point 17).

The efforts mentioned by the UN Committee refer to the **proposed bills** presented to the Parliament, during the current, but also in preceding Legislatures, both for the establishment of a independent body for human rights and for the establishment of a Ombudsman for children's and adolescents' rights.

During the current Legislature, the Senate's 1st Committee on Constitutional Affairs initiated an examination of the proposed bill for the establishment of an **Italian Committee for the promotion and safeguarding of human rights**¹⁶¹; agreement on the adoption of a basic joint text was reached, which did not provide for the eventuality of a Committee nor a specific section or division specifically responsible for the rights of children, as the UN Committee on children's and adolescents' right had instead hoped¹⁶². However, not long after, the legislative procedure was abruptly interrupted.

Even the parliamentary procedure on the **proposed bill establishing** a Ombudsman for Children ,

159 CESCR/ITA/04 of November 26, 2004 points 14 and 32; CCPR/C/ITA/CO/05 of April 24, 2006 point 7; CERD/C/ITA/CO/15 of March 2008 point 13; UPR II, 12, 13, 14, 15.

160 Among the more recent ones are, for example, the Prodi Government Plan 2006/2011, as well as the declarations made by the Minister for Equal Opportunities on the 1st of August 2008 in which, at the presentation in the Council of Ministers of the bill on the subject, the establishment of a Childhood Watchdog was heralded as a epoch-making.

161 A.S. 1223 discussed jointly at the DDL A.S. 1431.

162 General Comment no. 2, point 6, op. cit.

initiated by the government, approved by the Council of Ministers on August 1 2008, and presented to the Parliament on December 11th of the same year¹⁶³, after a quick start-up, came to a standstill.

The government-initiated bill was characterised by a numbers of weaknesses. First of all, it did not prevent the Ombudsman from also holding positions at associations or bodies working in the sector concerned with children and adolescents; it provided for forms of consultation by the Ombudsman with civil society and children that were generic and unstructured: it did not provide for a permanent consultative body capable of guaranteeing the collaborations an adequate continuity and regularity; the collaboration of regional Ombudsman was also provided for in an equally generic way, and what was indicated as being the toll-free emergency for contacting the Ombudsman was in fact the number currently being used to report maltreatment and abuse, managed by an association. The government-initiated bill posed some serious doubts, especially due to the absence of suitable means of guaranteeing autonomy and independence since it was arranged so that in order to carry out of its tasks it could make use of human, financial and instrumental resources from the Presidency of the Council of Ministers – Equal Opportunities Department, and the financial coverage foreseen for the law’s implementation law was reduced correspondingly to the indemnity intended for the Ombudsman . Parliamentary contacts interviewed for the purposes of this study highlighted the need to guarantee the Ombudsman’s independence, both from government as well as from parliament, and the importance of developing and empowering regional watchdogs, verifying the efficacy of their operations.

THE EXPERIENCES OF CHILDREN:

EMILIA ROMAGNA: Children in the CCR think that the Ombudsman should first of all get any information needed from the youngsters themselves.

SICILY: It would be helpful if I could turn directly to the Ombudsman , say through an information counter or on occasions offered by periodical public meetings.

The situation at a local level

Unlike the substantially stalled nature of the situation with respect to the establishment of a national Ombudsman for children and adolescents, at a regional level, over the past five years, there has been a progressive increase in the number of laws instituted to this end, and currently approved by all of the Regions¹⁶⁴, except for Sicily, Valle d’Aosta and Sardinia.

However, in reality, the situation is very varied because the regional laws that have been approved have differing contents, in terms of requisites and methods of nomination, structure, functions, powers, and resources attributed to the Ombudsman , and because not all of the Regions have provided for the nomination of a person entrusted with the role of heading such an entity. Currently, Ombudsman for children and adolescents are in operation only in Lazio, Veneto, Molise, Campania and the Autonomous Province of Bolzano. In the Marche, the functions of Ombudsman for children is carried out by one of the Ombudsman’s Offices for adult and child rights, and in Friuli Venezia Giulia, the President of the Regional Council has taken on this title and task for an interim period. In Liguria and in the Autonomous Province

¹⁶³ A.C. 2008.

¹⁶⁴ Tuscany (R.L. 26/2010); Autonomous Province of Bolzano (R.L. 3/2009); Piedmont (R.L. 31/2009); Umbria (R.L. 18/2009); Lombardy (R.L. 6/2009); Abruzzo (R.L. 46/1988); Veneto (R.L. 42/1988); Basilicata (R.L. 15/1990); Friuli Venezia Giulia (R.L. 49/1993); Marche (R.L. 18/2002); Lazio (R.L. 38/2002); Calabria (R.L. 28/2004); Emilia Romagna (R.L. 9/2005); Puglia (art. 30 R.L. 19/2006); Campania (R.L. 17/2006); Molise (L.R. 32/2006); Liguria (R.L. 9/2007).

of Trento, the regional Ombudsman has been delegated the role of Ombudsman for children, while in Emilia Romagna the Regional Ombudsman undertakes this task in practice, even in the absence of written authorisation, but retaining that minors also, by virtue of being citizens, come within its juridical scope.

The passage of laws establishing Ombudsman for children and adolescents taken place, in some cases, also at a provincial (for example, in Nuoro, Foggia and Cagliari¹⁶⁵) and municipal levels (for example, in Syracuse¹⁶⁶).

The Regional establishing laws in which the Ombudsman has been appointed do not envisage any form of **structured collaboration with the Third Sector**, but are rather generic, and consistent in the promotion of initiatives aimed at safeguarding minors' rights (in Lazio's regional law, this is with particular regard to the theme of abuse). The Lazio Region's Ombudsman for childhood, interviewed for the purposes of this study, affirmed that his collaboration with civil society takes place through periodical meetings and the stipulation of protocol agreements, but believes that it is an area that needs to be strengthened further. The regional laws of the Marche and Campania anticipate a Regional Conference on children and adolescents to be held triennially. In the regional laws of those Regions that have already established a Ombudsman, but have not yet appointed a head, a form of structured consultation with the Third Sector is envisaged only in Liguria, through the establishment of a "Ombudsman Consultative Committee". In Calabria, Umbria and Tuscany, Third Sector consultation would be carried out in the context of a triennial Regional Conference on children and adolescents.

Nor is a **structured consultation with children and youngsters** anticipated in the Regions in which a Ombudsman has been appointed. The Ombudsman for Children of the Lazio Region has held consultations with adolescents on specific themes¹⁶⁷ and is aware of the Municipal Youth Councils operating in Viterbo and Frosinone. The majority of the regional laws do not even foresee youngsters having access to the Ombudsman Offices and/or regulating it in a specific manner: Friuli Venezia Giulia's and Veneto's regional laws do not envisage these aspects; the Marche's regional law anticipates them, but in a very generic way ("it receives reports about rights violations of minors") and in a specific manner in that of Lazio ("receives reports from individuals, including those underage"); the Autonomous Province of Bolzano's regional law specifies that the Ombudsman receives "directly and confidentially" not just reports of violations, but also communications on "the needs, requests and proposals meant to improve the condition of children and adolescents" from minors, among others. The Ombudsman appointees maintain, however, that youngsters can turn personally to the Ombudsman, albeit through different methods, but only in cases in which their rights have been violated: through reports sent via website, by telephone or during public meetings, but mainly scholastic contexts and the Municipal Youth Councils. However, the number of youths who have contacted the Ombudsman during 2008-2009 appears to have been on a very small scale in all of the Regions: none (through reports) in one Region, about ten in another; and less than 50 and over 50 in two other Regions¹⁶⁸. Among the Regions in which a Ombudsman has been established, but none has yet been appointed, only Liguria has anticipated a structured form of consultation with minors through the participation of one of their designated representatives in each of its Provincial Student Councils.

Accessibility of the Ombudsman's Offices by youngsters is envisaged in a generic manner in the regional laws of Calabria, Campania and Liguria, and in a more specific way in that of Emilia Romagna.

¹⁶⁵ Source: 2nd Supplementary Report, Italian Ngo Group for the CRC

¹⁶⁶ Provided for by the Municipal Statute, recently regulated, but an appointment has not yet made.

¹⁶⁷ Paurismo: accoglienza, tutela e ascolto dei minori stranieri in Italia, Save the Children Italia and Lazio Ombudsman, 2008

¹⁶⁸ Save the Children consultation with Regional Ombudsman, September 2009.

With respect to the Regions covered in this study some specific revelations proved to be of particular interest.

In **Lazio**, the Office of Ombudsman for children and adolescents does not provide services, but initiates and stimulates courses of action. In particular, it carries out an intervention strategy, or rather, checks on the degree of minors' uneasiness and fragility (this is most apparent when it come to minors living outside the family unit, in communities or in foster care), and attempts to reinforce the system providing protection (for example, through courses for volunteer tutors). The current form of **Coordination** with other regional and local (Municipality of Rome) institutional offices is deemed a weakness by both the Ombudsman as well as the institutional representatives and would need strengthening; on the other hand, what has emerged as very positive step in improving coordination is that experienced by appointed regional Ombudsman who recently established a coordination system by naming the Lazio Region's Ombudsman for children as their coordinator.

The **Lombardy** Region's experience, where the appointment of a Ombudsman is on hold awaiting approval of the implementation regulations of the R.L. establishing a Ombudsman , can be seen as an expression of good practices through the involvement of civil society and youngsters, provided for in a structured way by the regional law which, already at the discussion phase, should soon be implemented.

The **Emilia Romagna Region**, where, as already been mentioned, the Ombudsman carries out the role and functions of the Ombudsman for children, stands out among the other regions because of the attention it gives to communication with youngsters through the preparation of *child friendly* informational material which it distributes mainly at schools.

Conclusions

The failure to approve a law establishing a National Ombudsman for children and adolescents represents a serious noncompliance on the part of the Italian government with regard to the obligations it assumed in ratifying the CRC, as well as with regard to the commitments it has repeatedly made in this field. In particular, continuous procrastination characterizing parliamentary procedures has a clearly negative effect, as has the absence of any guarantees of independence (including resources) of participation by minors, in spite of the UN Committee's clear instructions in this sense.

Despite the significant degree of effort shown by the Regions in establishing Ombudsman for children and adolescents at a local government level, through the passage of laws, the differences between the various institutional regulations are worrying, as are the difficulties witnessed in proceeding to the appointment of a Ombudsman , and in then being operative and recognized within the territory for which he/she has been appointed.

In particular, there is serious concern about the differences in children' and adolescents' access to their rights depending on which Italian Region the reside in, that these risk being perpetuated and further fostered by the amendment to Article V, part II of the Italian Constitution, as the State has authority in «determining the essential levels of services concerning civil and social rights that need to be guaranteed throughout the national territory» (Const., art. 117 para. 2 *m*). However, these "essential levels" have not yet been identified, and it would be of fundamental importance that there be provisions made for essential levels of services concerning the civil and social rights of children and adolescents through the establishment of regional Ombudsman .

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to Parliament**, to immediately resume examination of the proposed bill on the establishment of a National Ombudsman for children and adolescents and proceed to the passage of an institutional law that fully respects the standards set out by the UN Committee, foremost among which are autonomy and independence;
- **to the Government**, to take steps to determine the essential levels of services concerning civil and social rights and include among these a Ombudsman for children at a regional level;
- **to the Regions** that have not yet approved a law establishing a Ombudsman for children or have not yet appointed one, to take immediate steps forward on these fronts, and, where a Ombudsman is already in operation, to help reinforce his/her role and recognition within the territory, by also creating a greater and better collaboration and coordination with other institutional bodies, with civil society, and, above all, with children and adolescents.

3.10 Information and awareness raising

Introduction

On the basis of what is set out in art. 42 of the CRC “States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.””.

In its General Comment no. 5, the UN Committee has specified (point 66) that “ If the adults around children, their parents and other family members, teachers and carers do not understand the implications of the Convention, and above all its confirmation of the equal status of children as subjects of rights, it is most unlikely that the rights set out in the Convention will be realized for many children.”

The UN Committee therefore advised States (point 67) “*should* develop a comprehensive strategy for disseminating knowledge of the Convention throughout society. This should include information on those bodies - governmental and independent - involved in implementation and monitoring and on how to contact them.”

Not only the CRC and the Optional Protocols, but even the Report on the implementation status of these documents should be made widely accessible, beginning with translation into an official language, but also through simplification of the language that makes it “child friendly”, and disseminated at local and national levels.

Art. 44.6 of the CRC in fact states that “ States Parties shall make their reports widely available to the public in their own countries”. The Governments and Parliaments are therefore strongly urged by the UN Committee (point 72) to post such Reports on their websites, as should all documentation concerning their Reports’ examination of the Convention’s application (point 73).

All of these documents should not only be accessible and widely circulated, but also discussed, with the aim of promoting a constructive debate and to shape the implementation process at all levels. The UN Committee’s Concluding Observations, in particular, should also be circulated among children and should be the focus of an in-depth debate in Parliament. In fact, as the UN Committee points out (point 71), “but unless reports are disseminated and constructively debated at the national level, the process is unlikely to have substantial impact on children’s lives.”

The situation at the national level

In its **2003 Concluding Observations to Italy**, the UN Committee had welcomed (point 18) the efforts made in disseminating the Convention, especially **through the National Centre for the Documentation and Analysis of Childhood and Adolescence**. The UN Committee had however reiterated its concern about the fact that dissemination and awareness-raising activities were **not** always conducted in a **systematic** and targeted manner, and for this reason recommended that Italy (point 19) consolidate and forge ahead with its programme to disseminate information about the Convention and its application among children and parents, civil society and all government sectors and levels, including initiatives addressing vulnerable groups.

Also in its **2006 Concluding Observations** (point 11), the UN Committee had highlighted and expressed “with appreciation the efforts made by the State party to raise awareness about the provisions of the Optional Protocol”¹⁶⁹. However, the UN Committee had also expressed concern about the fact that dissemination of information on the subject of the sale of children, child prostitution and child pornography was not carried out in a systematic way and had recommended Italy (point 12) to pay “*particular attention to its awareness-raising campaigns and to the use of appropriate materials for minors*”.

With regard to the fact that dissemination of the CRC and Optional Protocols had not been systematic, it is first of all necessary to point out that in Italy there is no entity specifically assigned to carry out this kind of activity.

The National Centre for the Documentation and Analysis of Childhood and Adolescence partially carries out this function by gathering and publishing the research and publications bulletin on the world of minors¹⁶⁹.

The contacts at institutions interviewed believe that various Ministries should be responsible for this task in a transversal manner.

The Government’s Report indicates that dissemination of the CRC and Optional Protocols is an activity the Government tends to “delegate” to third sector associations – often with the help of public financing – and believes it should be carried out by the UNICEF’s national section and local committees¹⁷⁰. In particular, it should be noted that UNICEF’s Italian Committee has launched a pilot project with the Ministry of Public Instruction for the dissemination of child rights based on the CRC, that should involve about 600 schools, while there are active agreements with about 20 universities to provide multi-disciplinary courses on teaching these rights.

In reality, the Government and Parliament should also carry out these kinds of activities. However, the only initiatives accomplished with this purpose in mind have been the three **National Conferences on children and adolescents**¹⁷¹ organised periodically in concurrence with the anniversary of the entry into force of the CRC (November 20)¹⁷²:

169 Art. 3 par. 2 g DPR 103/2007.

170 See Government Report, chapter I par. 7.

171 Established by Law no. 285/11/1997, art. 11 par. 1.

172 - “Foremost in my thoughts” (1998, Florence), the working acts and documents of which have been published and are also available on line - www.minori.it/files/In_testa_ai_miei_pensieri_ATTI_Conferenza_1998.pdf and www.minori.it/files/In_testa_ai_miei_pensieri_DOCUMENTI_Conferenza_1998.pdf -

- “Let’s put our noses in it” (2002, Collodi), the papers from these meetings were collected and published by the National Centre for the Documentation and Analysis of Childhood and Adolescence as an insert in the magazine, *Cittadini in crescita* 2/2003 and also made available on line - www.minori.it/files/Mettiamoci_il_naso_Atto_conferenza_2002.pdf -

- “Children hold the future in their hands” (2009, Naples), to which an entire website was devoted – www.conferenzainfanzia.it/site/

The government's Report cites, by way of example, as a CRC dissemination activity carried out by the Public Administration at a central level, the online interactive path for children and youngsters published on the State Police website¹⁷³. The Ministry of Labour and Social Policies is meant to publish a brief informational booklet for schools for the CRC's 20th anniversary. Apparently other type of action has never been undertaken by other Ministries or Departments.

Confirming the concerns expressed by the UN Committee, the President of the National Centre for the Documentation and Analysis of Children's and Adolescents' Rights highlighted, at a national level, the absence of a specific programme for the dissemination of the CRC, for example, in schools, citing as among the obstacles facing the spread of information and awareness-raising at a national level the lack of coordination between the various ministries, together with the need for a stronger connection with the end users.

Disseminating knowledge about rights (art. 42)

Since no investigations on a national level appear to have been carried out with the aim of measuring and assessing the level of knowledge about the rights of children and adolescents ratified by the CRC attained by children, youngsters and those who look after them (teachers, judges, parents, social workers, volunteer and third sector bodies), those who are working in the forefront of defence and promotion of these rights get the impression that few in Italy know the contents of the CRC and most are unaware of its existence¹⁷⁴.

The President of the National Centre for the Documentation and Analysis of Children's and Adolescents' Rights shares this view entirely.

Disseminating knowledge of the Reports (art. 44.6)

In its 2003 Concluding Observations (point 56), the UN Committee recommended that *"the periodic report submitted by the State party be made widely available to the public at large and that consideration be given to the publication of the report, along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion and the concluding observations thereon adopted by the Committee"*.

The Inter-ministerial Committee for Human Rights (CIDU) has undertaken the task of making available the Italian version of all the documents that are delivered to the UN Committee by the Italian Government and documents relating to Italy released by the UN Committee. CIDU has also, in 2006, provided for the unofficial translation of the document in response to the list of questions sent to the Italian Government¹⁷⁵ by the UN Committee and the Concluding Observations on the implementation status of the CRC's Optional Protocols.

The Italian Committee of UNICEF supervised the unofficial translation of the 2003 Concluding Observations and the printing of those from 2006, available both in hard copy free of charge as well as on line¹⁷⁶.

Institute of Innocents in Florence edited the publication of the Italian edition of the UN's Third Quarter Report on the condition of children and adolescents, *Diritti in crescita*, which was distributed for free to a mailing list of about 3,000 contacts and is available on line on their website¹⁷⁷; they were distributed during

173 www.poliziadistato.it/pds/giovanissimi/main.htm

174 Benevene P. Le violazioni dei diritti dei bambini e degli adolescenti www.onuitalia.it/diritti/infanzia/BeneveneCRCEviolazioni.html

175 Italian NGo Group for the CRC, 3th Follow-up Report 2007-2008, p. 18.

176 www.unicef.it/doc/613/osservazioni-conclusive.htm

177 I diritti attuati, November 1998 www.minori.it/files/Diritti_attuati_secondo_rapporto_onu.pdf

the 2009 National Childhood Conference and published on the website that was dedicated to this event¹⁷⁸. Also earlier Reports are available on the web site of the National Centre for the Documentation and Analysis of Childhood and Adolescence and the Family Policies Department¹⁷⁹ (CIDU does not yet have its own website nor does it have its own page on the website of the Ministry of Foreign Affairs).

In this context, one should also note the activities of the Italian Ngo Group for the CRC, which has gathered together in a special section of their web site all of the documents relating to the monitoring of the CRC's implementation in Italy (*Government Reports, lists of issues, written replies, Concluding Observations*).

However, it does not seem that these documents have been sufficiently disseminated or become known if not (and not necessarily always) by those working in the sector. This view is shared also by the representatives of associations interviewed.

The youngsters consulted for the purposes of this study did not know about the monitoring system or the documents produced about it, also because there are currently no available child friendly versions.

THE EXPERIENCES OF CHILDREN:

SICILY: I didn't know that the Italian Government has to refer to a group of experts in Geneva (on the status of the CRC's implementation) every five years, and I've never seen either the Governmental Report or the recommendations that the experts have made to Italy.

Finally, it must be pointed out that not only do such documents fail to generate a "lively debate" at a parliamentary level, but they do not appear to be even known.

The situation at a local level

The majority of the Regions (except Calabria, Campania, Sardinia and Sicily, which did not supply information on this subject) claim to have contributed to the dissemination of the rights ratified by the Convention and its Optional Protocols through the organization of conventions, seminars involving in-depth examination, awareness-raising campaigns, training/refresher courses for operators in the sector, school activities and through projects aimed at particularly vulnerable minors: foreign minors and those from countries more recently acceded to the EU (Marche, Friuli Venezia Giulia, Autonomous Provinces of Trento and Veneto), children with disability (Emilia Romagna), Roma children (Lombardy) minors in juvenile detention (Piedmont, Puglia and Tuscany), and abandoned minors (Val d'Aosta)¹⁸⁰.

In particular, in **Emilia Romagna** such activity has apparently been carried out also through an association known as CAMINA (Cities that are friends with children and adolescents), aside from provincial programmes for safeguarding and reception, as well as through projects under ex Law no. 285/97 and the Zone Plans; in **Lombardy** this takes place during demonstrations held on days organised annually on and around the 20th of November – Universal Children's Day, as well as through a page especially dedicated to "Minors" on the region's Direction Family website; in **Lazio** dissemination takes place through

¹⁷⁸ www.conferenzainfanzia.it

¹⁷⁹ www.politichefamiglia.it/primo-piano/iii-iv-rapporto-al-comitato-onu-sui-diritti-del-fanciullo-sullo-stato-di-attuazione-della-convenzione.aspx

¹⁸⁰ See: responses to the questionnaire, form no. 8 in Pidida "Diritti dell'infanzia e dell'adolescenza – l'analisi delle politiche regionali. La parola alle Regioni", June 2008.

publications, conferences, regional websites and call centres established through the local healthcare agencies.

The contacts at regional institutions interviewed for the purposes of this study said they had not carried out information or awareness-raising activities on the rights contained in the CRC (Social Policies Departments – Lazio Region), that they were not in a position to guarantee that the whole community could know and be aware of the CRC's contents (Sicily and Emilia Romagna), or attributing responsibility in this area to the Municipalities (Emilia Romagna).

An exception in this case was Lazio Region's Ombudsman for children who maintained that he was capable of fulfilling this task, through its website and the dissemination of press releases (hence not by addressing a specific target).

However, the Municipalities consulted, as well as the National Italian Association of Municipalities, stated that they were not in a position to be able to guarantee knowledge of it at a local level (Catania, Rome) and that they did not put specific actions into effect for the dissemination of the CRC even though youngsters' rights enter into meetings with services operators (Bologna). Rome Municipality has however recently taken a step forward in this area, attaching a copy of the CRC to a publication on social services, directed, therefore, at operators in the sector, and it periodically sends out an electronic newsletter. The newsletter provides information on initiatives carried out in the context of policies and services directed at children generally, as well as updates and news with regard to the implementation of Law no. 285/1997 in Rome, presenting the initiatives and projects carried out.

Only the Municipality of Milan responded in a positive manner, citing the opportunity provided by the funds derived from the implementation of Law no. 285/1997: in the plans there is an explicit request that the CRC be disseminated.

In the study "Ten years in the implementation of Law no. 285" the National Centre for the Documentation and Analysis of Childhood and Adolescence demonstrated that during the first period of the implementation of Law no. 285/1997, the projects approved relating to art. 7 (positive actions for the promotion of children's and adolescents' rights) were second choices out of the total, yet became first choices during the second three-year period; in 2007 a distinction was achieved between the projects aimed at the promotion of children's rights and those for the integration of foreign children, from which one can deduce that there are 58 awareness-raising projects taking place in all, of which a good 14 in Catania, 11 in Bologna, and seven in Rome (the relevant data for Milan is not available).

The lack of human and/or economic resources to devote specifically and exclusively to such an activity is identified (in Lazio, Lombardy, Emilia Romagna, Municipalities of Catania and Roma) as the chief obstacle hindering implementation. Where this not an issue (Sicily), since a part of the funds generically allocated to information and awareness-raising could be dedicated to the CRC, the association operators interviewed pointed out as a weakness the absence of a culture of children's rights, a factor that makes the need for them and their usefulness all the more evident.

A degree of improvement can be identified in the systematisation of initiatives by turning them into autonomous actions, rather than accessories, as in the carrying out of projects and not circumscribed by the November 20th celebrations (Milan).

At this time, relevant information is lacking or difficult to retrieve in order to determine to what extent the CRC may be known about by children, youngsters and by the persons who are in close contact with them.

A recent study undertaken by the Veneto Region and promoted by the Office of the Public Ombudsman of Minors¹⁸¹, revealed that the level of information on the existence of the CRC is more or less broad-based: 95% of those interviewed know of the existence and nature of the Convention (in 2003 it was 93% and in 2005 91%), while the percentages of those who claimed to have read the Convention's text were decidedly lower (46%, less than half). The largest percentage of those having read the text (57%) is found among public social services staff (compared to 43% of school staff)¹⁸².

From the replies to a questionnaire given out between the end of September 2007 and January 2008 to about 2,000 youngsters (1,134 aged 10-12 and 876 aged 13-17) in five Regions (Campania, Lazio, Lombardy, Puglia and Veneto) it emerged that about 90% of the younger group knew their rights and about 80% of these had heard about them from their teachers (73.5% from their parents); only 67% of the older children had heard about them, mainly from their teachers (about 44%) and from TV (about 28%)¹⁸³.

THE EXPERIENCES OF CHILDREN:

SICILY: I found information on children's and adolescents' rights through my own research and from Arciragazzi, but I'd like to know more.

EMILIA ROMAGNA: Most of the children haven't worked on the CRC yet, so they didn't know its contents or existence and were curious about what rights are guaranteed in the document. In some of the classes, though, teachers had spoken to them about it.

When trying to think what might be their rights they cited: the right to speak, the right to eat, the right to express one's self, the right to play, the right to an education, the right to rest, the right to work (paid), the right to have a family, the right to lead a free life, the right to have a home.

Conclusions

Despite the fact that knowledge of the CRC appears widespread at an institutional level, and also in general at the level of public opinion, in reality this knowledge is limited to "knowing that the CRC exists" without having a full understanding of its contents, of the implications that its validity brings and the actions that would be required to achieve its full implementation. As pointed out by the UN Committee, the dissemination and awareness-raising activities are not conducted in a systematic and targeted manner, and tend rather to be of a purely celebratory nature (November 20). This deficiency can be attributed, aside from a lack of awareness with respect to even the need to carry out such an activity, to a lack of the human and financial resources that could carry out such a function. The Ombudsman for children and adolescents could play a more important role in this sense.

The dissemination of, and public access to, Italy's periodical Report to the UN Committee on the status of the CRC's implementation has improved in recent years, thanks also to the contribution made by civil

181 University of Padova – Inter-departmental Centre for Research and Services on persons' and Peoples' Rights, I diritti dei bambini e il Pubblico Tutore dei minori del veneto. Un'indagine campionaria, June 2010.

182 Cfr. I diritti dei bambini e il Pubblico Tutore dei minori del veneto. Un'indagine campionaria, op.cit. p. 19.

183 Pidida La parola ai bambini, alle bambine e ai ragazzi che vivono in Italia. Progetto pilota in 5 Regioni, May 2009.

society, but the political debate has not been stimulated by this process in an adequate and continuous way. Above all, the UN Committee's recommendations do not appear to be known and, therefore, are not even taken into consideration at regional and local levels.

Recommendations

In light of the above considerations, Save the Children Italy recommends:

- **to the Government**, to develop, in synergy with the Regions and Local Authorities, an integrated strategy aimed at disseminating and raising awareness within society (starting with those closest to minors: parents and teachers) about the CRC's contents, contributing to the allocation of adequate resources for their implementation and identifying a responsible subject to take charge of its implementation;
- **to Parliament**, to stimulate the Government and, in particular, the Ministries/Departments that are competent in the subject of childhood and adolescence, to carry out fully all of the rights contained in the CRC, taking in due consideration the task undertaken by its ratification and the recommendations received by Italy from the UN Committee;
- **to the Regions**, to participate in the development and implementation, on a local government level, of the integrated strategy aimed at disseminating and raising awareness within society (starting with those closest to minors: parents and teachers) about the CRC's contents, contributing to the allocation of adequate resources for their implementation and identifying a responsible subject to take charge of its implementation.

4. Conclusions

This study has the twofold aim of checking to see whether, and to what extent, the general measures for the implementation of the CRC have been introduced and whether the governance, understood as the activities and institutional framework, is fit for a child at both a national level and, above all, in the four regions that were the subject of this study (Emilia Romagna, Lazio, Lombardy and Sicily).

To what extent have the general measures for the implementation of the CRC been introduced in Italy?

In the light of the analysis carried out, starting with the opinions collected in this study, it is possible to state that in Italy the general measures for the implementation of the CRC have not been fully applied.

At a national level, following the ratification of the CRC **legislative provisions** aimed at bringing Italian legislation into line with the principles and rights contained in the CRC have been introduced and some of them are of considerable importance (such as Law 285/1997). A gradual loss in the efficacy and relevance of these initiatives has been noted, however, such as the inability of Parliament to pass a bill to create the national ombudsman for children and adolescents, which constitutes an important absence in the national legislative framework. While, generally speaking, it is possible to state that the ratification of the CRC has had a positive impact from a legislative point of view, the same cannot be said from a judicial point of view. Indeed, it is still fairly rare for the provisions of the CRC to be directly invoked and applied by the courts.

Another particularly critical aspect as regards the implementation of the general measures of the CRC is the continued absence – for six long years – of a **National Action Plan**, in other words of a national strategy by means of which the Government should have indicated how it intended to implement the CRC and identify those areas in which it had first of all to intervene. This absence is of even greater significance as a result of the institutional framework, which is characterised by a high level of fragmentation with regard to responsibility for childhood and adolescence issues. This responsibility is divided up among several Ministries and among several different Departments within these Ministries. There is also a proliferation of interministerial bodies relating to specific issues which do not appear to be capable of providing the necessary **coordination**.

The **monitoring** and **collecting of data and indicators** are mechanisms whose importance are underestimated when determining policies aimed at guaranteeing the respect and promotion of the rights of children and adolescents. Moreover, they are still not used as a point of reference for the taking of decisions concerning the financial resources to be allocated for these policies.

The **institutions and civil society** are struggling to discover where and how they can **collaborate** in a more structured way, while the general public is not sufficiently aware of the rights of the child despite the initiatives (however poorly structured) that have been taken to **inform them** and **make them more aware**. Such initiatives, it should be mentioned, are mainly carried out by associations from the Third Sector rather than by government institutions.

At a regional level, the situation recorded in the different areas is characterised by enormous differences and by the resulting risk of violations of the principle of non-discrimination in the implementation of the general measures of the CRC. As regards the **legislative provisions** introduced, for example,

it is important to note the different situation in the four regions studied in relation to the creation of the **regional ombudsperson for the rights of children and adolescents**. Three regions passed a law creating this figure (which differ with regard to their appointment, functions and powers), while in one region a person was just appointed to cover this role. Moreover, not all the regions are equally involved in the drawing up of the National Action Plan. The ways that were identified to ensure the involvement of the regions appear inadequate to guarantee the subsequent implementation of the Plan at a local level. There is a need for more and better coordination not just with regard to this specific issue and not just between central and local government, but also within regions and between the various institutional figures who hold responsibility for matters concerning children and adolescents. With regard to monitoring, the collecting of data and indicators, and the resources allocated for children and adolescents, the same structural problems encountered at a national level are evident at a regional level, too. The same is also true of the collaboration between the institutions and civil society. The action taken to inform people and make them more aware of the rights of children and adolescents is to a certain extent facilitated by the reduced geographical dimension of the areas involved, but here, too, the action taken tends to be carried out in an unstructured way and vary from region to region.

- **For these reasons Save the Children recommends** that greater commitment should be shown by Italian institutions at both a national and regional level to implement the general measures of the CRC in a coordinated and uniform way.
- In particular, Save the Children calls for the immediate adoption of the National Action Plan for Children and the passing of a law instituting the national ombudsperson for children (as well as the appointment of the ombudspersons in those regions which have already passed the relevant law). Save the Children also asks for the way in which policies in favour of children and adolescents are drafted and implemented to be reformed. There needs to be greater coordination and the policies must be based on monitoring activities and data collected. Moreover, all policies must have the necessary financial cover.

Governance, understood as the activities of government and the institutional framework – is it fit for children at a national and local level?

In the light of the analysis carried out, starting with the opinions collected in this study, it is possible to state that in Italy, in addition to it not being clear what real changes have been introduced in the lives of children and adolescents following the ratification of the CRC, the activities of government and the institutional framework – at both a national and local level – **are not fit for children**.

Boys and girls, of whatever age, are not involved in the processes that lead to decisions being taken on matters that concern them. Their involvement is not considered important and there remain serious doubts with regard to the possibility that the institutions may take any action to change this situation in the short term.

In particular, the boys and girls consulted for the purpose of this study stated that they did not really know what the monitoring of the state of implementation of the CRC actually involved and, more generally, they knew little about the relevant legislation and policies.

What is also worrying, here, is that the associations from civil society involved in the processes of consultation, above all at a local level, are mainly bodies which provide services for children and could therefore be more focus on their own interests than on the interest of children.

Moreover, it was also noted that children and adolescents continue not to be truly recognised as having a legal personality: the family continues to be the almost exclusive point of reference for policies concerning children and adolescents.

- **For these reasons Save the Children recommends** that the Italian institutions at both a national and regional level act to implement Art. 12 of the CRC by beginning discussions on the need to involve children in the activities of government and the institutional framework, identifying suitable ways also through the involvement of associations with competencies and experience in this field.

Appendix I:

Persons interviewed or consulted for this study

Laura Baldassarre, UNICEF Italia

Lamberto Baccini, ANCI - Welfare, school and e immigration unit – Social service division

Adriana Ciampa, General Executive Directorate for inclusion, Ministry of Labour and Social affairs.

Benedetta Colombo, Chamber of minors

Francesco Paolo Occhiogrosso, President of the National Center for Childhood and Adolescence

Liviana Marelli, CNCA

Angelo Mari, Executive Director – Department for Family Affairs

Enrico Moretti, Istitute of Innocent

Joseph Moyersoen, AIMMF

Alessandra Mussolini, President of Parliamentary Commission on childhood and adolescence

Piercarlo Pazè, Child Rights specialist

Anna Serafini, Vice- Parliamentary Commission on childhood and adolescence

Chiara Venier, Social Policies specialist - Development Cooperation of the Ministry of Foreign Affairs

Franco Alvaro, Ombudsperson for children - Lazio Region

Antonietta Bellisari, Social Service Department, referent of Law 285, Lazio Region

Francesco Centofante, Social Service Department Lazio Region

Marco Marafini, Economic and employment Department Lazio Region

Martino Rebonato, Chief Department of law 285, Municipality of Roma

Giuseppa Delfa, Department for Family Affairs, referent of Law 285, Municipality of Catania

Silvana La Rosa, Department for Family Affairs, Sicilia Region

Pino Pennisi, President of Arciragazzi Siracusa

Giovanni Daverio, Department for Family, School and Social Affairs, referent of Law 285, Municipality of Milan

Rosella Petrali, Department for Family and Social Solidarity Affairs, Lombardy Region

Sara Valmaggi, Secretary of the Comm. Health and Care Childhood Observatory

Annalisa Faccini, Department for Family, Social and Health affairs, referent Law 285, Municipality of Bologna

Alessandro Finelli, Chief of Regional Childhood Observatory, Emilia Romagna Region

Maura Forni, Chief Department for Family, Childhood and Adolescence Affairs - Emilia Romagna Region

Daniele Lugli, Ombudsan - Emilia-Romagna Region

Maria Teresa Paladino, Department for Family Affairs referent of Law 285 - Emilia-Romagna Region

Gino Passarini, Department for Family, Childhood and Adolescence Affairs - Emilia Romagna Region

Caterina Pozzi, CNCA Bologna

Save the Children also thanks for their precious collaboration the boys and girls of the City Council of children of Calderara di Reno (Bologna) and Giuliana D'Urso of Arciragazzi of Siracusa.

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The Project Governance fit for Children

This report is part of an overarching project across five European countries and the EU institution. Save the Children has received financial support from the European Commission's Fundamental Rights and Citizenship Programme to carry out the project Governance fit for Children to assess how far the general measures of implementation of the UN Convention on the Rights of the Child (UNCRC) have been realised at European, national and community level.



The general measures of implementation in the Convention on the Rights of the Child (articles 4, 42 and 44.6) concern the structures and mechanisms which need to be in place if the whole of the UNCRC is to be implemented holistically .

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