



Convention on the Rights of the Child

Distr.: General
24 February 2021
English
Original: Spanish

Committee on the Rights of the Child

Decision adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in respect of communication No. 113/2020* **

<i>Communication submitted by:</i>	B.B. (represented by José Luis Rodríguez Candela)
<i>Alleged victims:</i>	L.B., A.B., N.B. and K.B.
<i>State party:</i>	Spain
<i>Date of communication:</i>	18 February 2020
<i>Subject matter:</i>	Right to education of children of Moroccan nationality born in Melilla

1. The author of the communication is B.B., a Moroccan national who lives in Melilla, a Spanish semi-enclave on the Mediterranean coast of Morocco. The author submitted the communication on behalf of her four children, L.B., A.B., N.B. and K.B., who were 11, 9, 7 and 4 years of age, respectively, at the time of submission. Although they were born in Melilla and have lived there all their lives, the author's children are of Moroccan nationality and are considered "irregular residents" in Melilla. The author claims a violation of her children's rights under articles 2, 3, 28 and 29 of the Convention. The author is represented by counsel.

2. On 8 May 2019 the author submitted an application to the Melilla Provincial Directorate of the Ministry of Education and Vocational Training to enrol her children in primary school. The author provided documentation, including their birth certificates, passports, health cards issued in Melilla and a report on the family's integration into the local community drawn up by the Department of Social Welfare. The author explains that she has been trying for years to apply for her children's enrolment in primary school. However, the authorities never allowed her to submit a formal application until the above-mentioned date.

3. On 18 September 2019, the list of all students who had been admitted for the school year was published. The author's children were listed as not having been admitted because not all the documentation requested had been provided. On 23 September 2019, the author contacted the authorities to find out which documents were missing but received no response.

4. On 8 November 2019, the author filed an appeal with Administrative Court No. 3 in Melilla to request that her children be enrolled in school, including a request for interim measures to prevent irreparable harm consisting of the loss of instructional time over the current school year while the proceedings were ongoing. On 6 February 2019, the Court

* Adopted by the Committee at its eighty-sixth session (18 January–5 February 2021).

** The following members of the Committee participated in the consideration of the present communication: Suzanne Aho Assouma, Amal Salman Aldoseri, Hynd Ayoubi Idrissi, Bragi Gudbrandsson, Philip Jaffé, Olga A. Khazova, Gehad Madi, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, Ann Marie Skelton, Velina Todorova and Renate Winter.



denied the request for interim measures on the grounds that granting them would prejudice the merits of the case at that stage of the proceedings. On 12 February 2019, the author lodged an appeal against the denial of interim measures with the Malaga High Court of Justice. No decision on the appeal had yet been issued at the time the communication was submitted to the Committee.

5. The author explains that her children have been attending a centre called the Residence for Moroccan Muslim Students in Melilla. The residence is not accredited as an official educational institution. Therefore, the children will not receive a public diploma that would allow them to find a suitable job in the place where they live, and this puts them at risk of social exclusion and stigmatization. The author further explains that the residence is a religious centre and that the children are obligated to “learn and receive instruction in the Muslim religion, [...] which violates the right of children and their parents to religious freedom” under article 14 of the Convention.

6. On 25 February 2020, the Committee, acting through its working group on communications, decided to register the communication and to grant interim measures by requesting the State party to provide schooling for the author’s children immediately, for as long as the communication remains under consideration.

7. In the months that followed, the national judicial and administrative authorities continued to refuse to enrol the author’s children in school and argued that the Committee’s request for interim measures was not binding. On 12 March and 22 April 2020, the Committee reiterated its request for interim measures, recalling the compulsory nature of interim measures under article 6 of the Optional Protocol.

8. On 3 November 2020, the author notified the Committee that the father of her children had obtained a permit to reside in the city and had thus been able to have their names recorded in the municipal register. With this registration, the children were permanently enrolled in the local public school. The author requests that the Committee discontinue its consideration of the communication, but points out that the practice of making school enrolment contingent on inclusion in the municipal register, which is almost impossible to obtain in Melilla because of the irregular administrative status of many parents of Moroccan children born in the city, leaves a significant number of these children outside the education system.

9. At its meeting of 4 February 2021, the Committee on the Rights of the Child, having considered the author’s request for discontinuance, noted that the author’s children have now been enrolled in school. Although this fact does not in itself amount to full reparation for the alleged violations of the Convention, the Committee is of the view that the present communication has become moot as a result of the children’s enrolment in school and decides to discontinue its consideration of communication No. 113/2020, in accordance with rule 26 of its rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.
