



Convention on the Rights of the Child

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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. 111/2020*, **

<i>Communication submitted by:</i>	A.B.
<i>Alleged victim:</i>	N.S.
<i>State party:</i>	Spain
<i>Date of communication:</i>	10 February 2020
<i>Subject matter:</i>	Right to education of a girl of Moroccan nationality born in Melilla

1. The author of the communication, N.S. (12 years old), is a Moroccan national who lives in Melilla, a Spanish semi-enclave on the Mediterranean coast of Morocco. Although she was born in Melilla and has resided there since birth, she is considered an “irregular resident”, as is her mother (A.B.). She claims a violation of her rights under articles 2–3 and 28–29 of the Convention. She is represented by counsel.

2. On 14 May 2019, N.S. applied to enrol in the last year of primary school at the Juan Caro public school in Melilla. She submitted, among other documents, her birth certificate, her passport and a sworn statement signed by a notary public of her mother’s partner (of Spanish nationality) stating that she and her mother lived with him in Melilla. She also submitted a 2010 decision by a judge in Melilla granting custody to her mother, as her father had been absent since her birth. The whereabouts of the father remain unknown and N.S. has never met him; he has never exercised his visitation rights or paid the monthly child maintenance established by the judge.

3. The authorities did not respond to her application and, on 8 November 2019, the author filed a complaint with Administrative Court No. 1 of Melilla in order to demand the enrolment of N.S.; this complaint included a request for interim measures. She submitted, among other documents, an official certificate from the local administrative authorities stating that N.S.’s mother had been placed in the care of social services twice as an unaccompanied child in Melilla, before she became an adult. In denying the interim measures, the Court argued that N.S. could and should be educated in Morocco.

4. The author appealed the decision to reject the request for interim measures and submitted the communication to the Committee, requesting the same interim measures. The

* Adopted by the Committee at its eighty-fifth session (14 September–1 October 2020).

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



Committee agreed that the interim measures should be taken and requested the State party to enrol N.S. in school immediately while the communication was under consideration.

5. On 21 February 2020, the Provincial Directorate of Education in Melilla issued a decision rejecting N.S.'s enrolment in school and arguing that the Committee's request for interim measures was not binding. On 2 March 2020, Administrative Court No. 1 again denied the interim measures requested and, like the Provincial Directorate of Education, stated that the Committee's request for interim measures was not binding. On 5 March 2020, the Committee reiterated its request for interim measures and recalled the compulsory nature of interim measures under article 6 of the Optional Protocol.

6. On 21 April 2020, the author notified the Committee that the local authorities had verified her actual residence in Melilla and that she had been granted a permanent place in the local public school. The author also stated that the domestic court proceedings had been concluded for this reason, and she requested that the Committee discontinue its consideration of the communication.

7. On 20 May 2020, the State party confirmed the information provided by the author.

8. At its meeting on 28 September 2020, the Committee on the Rights of the Child, having considered the author's request for discontinuance, noted that the author had 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 author's enrolment in school leaves the present communication bereft of purpose and decides to discontinue its consideration of communication No. 111/2020, 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.
