



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, concerning communication No. 127/2020* **

<i>Communication submitted by:</i>	A.P. (represented by counsel, Frédéric Fabre)
<i>Alleged victim:</i>	S.T.P
<i>State party:</i>	France
<i>Date of communication:</i>	10 November 2020 (initial submission)
<i>Subject matter:</i>	Placement of an autistic child in a specialized institution
<i>Substantive issues:</i>	Development of the child; separation of children from parents; right of children to be heard in any judicial and administrative proceedings affecting them
<i>Articles of the Convention:</i>	6, 9, 12, 23 (1) and 37 (a)

1. The author of the communication is A.P., a national of France, acting on behalf of her son S.T.P., born on 10 March 2008, also a national of France. She claims a violation by the State party of articles 6, 9, 12, 23 (1) and 37 (a) of the Convention. She requests that the child be returned to her while her communication is being examined. The author is represented by counsel, Frédéric Fabre. The Optional Protocol entered into force for the State party on 7 April 2016.

2. On 19 November 2020, the Committee, acting through its Working Group on Communications, decided to register the communication. The Committee did not accede to the author's request for interim measures to place the child in her home but requested the State party to ensure that an assessment of the child be made immediately by independent specialists in order to determine his state of physical and mental health and ensure his immediate access to any medical care that may be required.

3. After the birth of her son, the author separated from her husband, who was still enjoying regular visiting and accommodation arrangements. Doctors identified an autism spectrum disorder in the child.

* Adopted by the Committee at its eighty-ninth session (31 January–11 February 2022).

** The following members of the Committee participated in the examination of the communication: Suzanne Aho, Hynd Ayoubi Idrissi, Rinchen Chopel, Bragi Gudbrandsson, Philip Jaffé, Sodio Kiladze, Gehad Madi, Benyam Dawit Mezmur, Clarence Nelson, Otani Mikiko, Luis Ernesto Pedernera Reyna, Zara Ratou, José Ángel Rodríguez Reyes, Ann Marie Skelton, Velina Todorova and Benoit Van Keirsbilck.



4. On 14 October 2016, the Public Prosecutor of Bonneville referred the case to the children's judge on the basis of a socio-educational evaluation by the government agency for prevention and social development describing the situation of S.T.P., then 8 years old, who had developmental and language disorders, a situation that could not be assessed other than through a meeting with his mother. By a decision of 12 January 2017, a judicial inquiry into the child's welfare was ordered and, on 25 October 2017, a day-care measure was then put in place. This measure was renewed on 23 October 2018, and again on 7 November 2019, pending a subsequent psychiatric assessment, for a period of up to one year.

5. On 20 July 2020, the children's judge at the Bonneville court granted the withdrawal of the day-care measure ordered on 25 October 2017 and entrusted S.T.P. to the Haute-Savoie child protection service until 30 July 2021. The judge noted that the mother, hiding behind her son, whose behaviour was clearly modelled on the mother's expectations, devoted all her energy to thwarting the work of the reception service and the resumption of ties with the father. The judge considered that it was necessary for an immediate change in the degrading situation of S.T.P., locked in a face-to-face confrontation with his mother without the possibility of living on his own, as was recommended by the psychiatric expert, in order to enable the child to maintain some distance – not to break the links between the parents and the child but rather to seek to properly balance the relationship and give him room to grow and develop as a fully-fledged individual. The judge granted both parents visitation rights with a third party's constant presence and requested that a report be sent to the children's judge every six months, 15 days before the due date. Lastly, the judge ordered the provisional enforcement of this decision. On 6 October 2020, the Chambéry Court of Appeal denied the request to stop the provisional enforcement of the 20 July 2020 decision.

6. On 6 April 2021, the State party requested a separate decision on the admissibility of the case. It considered that the request was inadmissible, as domestic remedies had not been exhausted given that the legal proceedings – the appeal against the decision on the child's placement – were still pending.

7. However, on 15 July 2021, the Bonneville court of justice delivered a decision ending the placement of S.T.P. in care. The children's judge, after admitting that the placement of the child had not allowed him to reconnect with his father, found that the measure appeared to be counterproductive for the teenager, who, because of the autism spectrum disorder, required continuous support and special attention. On 20 July and 7 October 2021, the author informed the Committee that her child had returned home to her.

8. At its meeting on 8 February 2022, the Committee, having ascertained that the author's son had been returned to her and that S.T.P. was no longer placed in care, decided to discontinue consideration of communication No. 127/2020 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, as it had become moot.
