



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. 134/2020*, **

<i>Communication submitted by:</i>	L. H. C. (represented by Beatriz Aragón Martín, Blanca Gómez Bengoechea and Luis Ignacio Mateo Ramírez)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Spain
<i>Date of communication:</i>	27 December 2020 (initial submission)
<i>Subject matter:</i>	Alternative housing for a girl with a lung disease living in an informal settlement affected by power cuts that have left her home without the electricity needed to maintain her oxygen therapy and nutritional management
<i>Substantive issues:</i>	Best interests of the child, rights of the child, right to health, right to housing
<i>Articles of the Convention:</i>	3 (1), 4, 6, 12, 24, 27 and 28

1. The author of the communication is L. H. C., a national of Spain aged 3 years at the time of submission of the communication. She claims that the State party has violated her rights under articles 3 (1), 4, 6, 12, 24, 27 and 28 of the Convention. The author is represented by counsel. The Optional Protocol entered into force for the State party on 14 April 2014.

2. The author lives in an informal settlement in Cañada Real Galiana, Madrid, where the lack of a power supply has prevented her from having electricity in her home since October 2020. She suffers from bronchitis obliterans, a rare lung disease that causes narrowing or complete obstruction of the airways. The author requires continuous oxygen therapy and a nightly nutritional intake, both of which are delivered through electrical devices.

* Adopted by the Committee at its ninety-second session (16 January–3 February 2023).

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



3. The author has submitted applications for emergency housing to the delegate for Families, Equality and Social Welfare of Madrid City Council and the Director General for Children, Family and Births of the Community of Madrid. She has also filed a collective complaint with Madrid Criminal Court No. 42, which was deemed admissible, and a complaint with the Madrid provincial prosecution service. Furthermore, the author has requested the Spanish Ombudsman to intervene. She adds that third parties submitted a joint letter on behalf of 1,812 children living in Cañada Real Galiana to various special procedures of the Human Rights Council. In response to this letter, the Special Rapporteurs on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, on the rights of persons with disabilities, on the right to education, on the right to food, on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, on the human rights of migrants, on minority issues, on extreme poverty and human rights and on the human rights to safe drinking water and sanitation urged the State party's Government to restore the electricity supply in Cañada Real Galiana. No reply had been received as at the date of submission of the communication.

4. On 30 December 2020, the Committee, acting through its Working Group on Communications, registered the individual communication and granted interim measures by requesting the State party to provide the author with the necessary medical and social services, including adequate accommodation to meet her health needs, without separating her from her family.

5. On 31 December 2020, the author informed the Committee that she had been offered temporary accommodation by the Madrid City Council authorities, but that she had no information on the location or on the duration of the offer, and that it consisted of a room with shared spaces, which put her in danger given her specific illness and the risks associated with the coronavirus disease (COVID-19) pandemic. On 12 January 2021, the author reported that she had rejected Madrid City Council's offer and that no new offers had been made to her.

6. On 19 January 2021, the State party requested that the Committee discontinue its consideration of the communication on the grounds that, on 15 January 2021, the Community of Madrid had decided to offer the author's parents a three-bedroom emergency social housing unit for a period of six months, extendable for a further six months.

7. On 21 and 27 January 2021, the author objected to the State party's request for discontinuance, arguing that her family had not yet received a formal offer of adequate alternative housing. She explained that, on 18 January 2021, her parents received a telephone call from an unspecified agency offering them housing in Tielmes. Her parents rejected the offer because Tielmes is 50 km from the children's hospital in Madrid, where the author receives treatment, and has no suitable health centre nearby. On 19 January 2021, her parents received another telephone call from the Madrid Social Housing Agency, which offered them housing in the district of Carabanchel, within the city of Madrid. The parents expressed their willingness to accept this offer but have not received it in writing. During the telephone call, they were informed that they would be called back for a meeting to finalize the details and sign the rental contract. They were also informed that they would not be able to move in immediately because some final arrangements had to be made. On 29 January 2021, the Committee, acting through its Working Group on Communications, rejected the State party's request for discontinuance and reiterated the request for interim measures.

8. On 5 February 2021, the State party submitted a second request for discontinuance, stating that the author and her family had signed the lease for the three-bedroom flat in Carabanchel, Madrid, and had been given the keys.

9. On 11 February 2021, the author submitted her comments on the State party's second request for discontinuance. She confirmed that her family had moved into the above-mentioned flat. She stated that the emergency situation had been resolved and that the risk of irreparable harm had been averted. However, she objected to the discontinuance on the grounds that: (a) the accommodation had been granted only for six months, renewable for a further six months; (b) the family had not been assigned a new social worker in their new place of residence; (c) they had not yet been able to formally register their new place of

residence and had therefore not been able to apply for a rent reduction and social benefits to enable them to purchase the necessary furniture (the flat was unfurnished); (d) from 2 October 2020 to 27 January 2021, the author did not receive an adequate response from the authorities; and (e) the family had been forced to leave their former home owing to the lack of electricity. On 21 September 2021, the Committee, acting through its working group on communications, rejected the State party's request for discontinuance.

10. On 10 February 2022, the State party again requested that the Committee should discontinue its consideration of the communication. The State party reported that the temporary granting of social housing to the author's family on 19 January 2021 on an emergency basis had been made permanent on 24 January 2022 through the ordinary scheme for reasons of "special need" pursuant to Decree No. 52/2016 of 31 May.

11. On 20 May 2022, the author confirmed the information submitted by the State party. However, the author requested the Committee not to discontinue its consideration of the communication because: (a) although remedied, the alleged violations had not been acknowledged or redressed; and (b) the lack of electricity in Cañada Real Galiana continued more than 500 days later and was affecting more than 1,800 children, which amounts to a structural violation of rights that has not ceased with the author's relocation.

12. At a meeting on 25 January 2023, the Committee, having considered the State party's request for discontinuance, notes that the author's family has been granted permanent social housing that meets her health needs and that she no longer faces any health risks associated with her housing situation. 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 granting of adequate and permanent social housing to the author leaves the present communication bereft of purpose. As to the general allegation concerning other children in Cañada Real, the Committee notes that this is not the subject of the present communication. The Committee therefore considers that communication No. 134/2020 is now devoid of purpose and decides to discontinue its consideration thereof, 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.
