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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. 143/2021*, **

Communication submitted by:	S.M. and A.T.M. (represented by counsel, Sylvie Sarolea)
Alleged victims:	S.M., F.M. and H.M.
State Party:	Belgium
Date of communication:	10 December 2020 (initial submission)
Date of adoption of decision:	24 January 2025
Subject matter:	Return of two children, one of whom is disabled, to Algeria
Procedural issues:	Admissibility *ratione personae*; lack of substantiation; exhaustion of domestic remedies
Substantive issues:	Discrimination on the basis of disability; best interests of the child; health
Article of the Convention:	2, 3, 23 and 24
Articles of the Optional Protocol:	7 (c), (e) and (f)

1.1 The authors of the communication are S.M. and A.T.M. They submit the communication on behalf of S.M. and their children, F.M., born on 28 September 2006 and deceased on 20 March 2022, and H.M., born on 7 November 2010. The authors and their children are nationals of Algeria. They claim that the State party violated articles 2, 3, 23 and 24 of the Convention by deciding to expel F.M. and H.M. to Algeria. The authors are represented by counsel. The Optional Protocol entered into force for the State party on 30 August 2014.

1.2 On 12 May 2021, in accordance with article 6 of the Optional Protocol and rule 7 of its rules of procedure, the Committee, acting through its Working Group on Communications,

* Adopted by the Committee at its ninety-eighth session (13–31 January 2025).

** The following members of the Committee participated in the consideration of the communication: Suzanne Aho, Aïssatou Alassane Sidikou, Thuwayba Al Barwani, Hynd Ayoubi Idrissi, Mary Beloff, Rinchen Chophel, Rosaria Correa, Bragi Gudbrandsson, Philip Jaffé, Sopio Kiladze, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, Ann Skelton, Velina Todorova and Ratou Zara. Pursuant to rule 8 (1) (a) of the Committee's rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, Benoit Van Keirsbilck did not participate in the examination of the communication.

requested the State party to suspend the family's expulsion to Algeria while the Committee considered the communication.

Facts as submitted by the authors

2.1 F.M. was born in Algeria, where she suffered neonatal asphyxia shortly after birth, as well as a cerebral haemorrhage and neonatal convulsions. She required resuscitation. As a result of these complications, she had West's syndrome (a rare form of epilepsy), which slowed her mental and motor development and hindered her ability to engage with the outside world. Her delays required twice-daily sessions of physiotherapy, psychomotor rehabilitation and occupational therapy. She suffered from numerous respiratory difficulties and lung infections, which required her to be admitted to hospital on an emergency basis on a number of occasions owing to the immediate risk of suffocation during her bouts of distress. F.M. had eating disorders and underwent several episodes of undernutrition. Her illness was not treated in Algeria because the necessary care services were non-existent or inadequate. In particular, she required percussive physiotherapy, a method requiring specific equipment that is unavailable in Algeria, and a special nutrition technique involving tube feeding with a specific type of milk whose availability in Algeria has not been established.

2.2 On 17 November 2011, A.T.M. arrived in Belgium as a non-European worker. He subsequently lost his residence permit following difficulties with his employer. In November 2012, he was joined in Belgium by S.M., F.M. and H.M. On an unspecified date, F.M.'s school decided to exclude her, fearing that it would not be able to cope with the situations of extreme emergency linked to her state of health. On 22 April 2013, S.M. submitted, on behalf of F.M., an application for regularization under article 9 ter of the Act of 15 December 1980 on the entry, temporary and permanent residence and removal of aliens. This provision grants foreign nationals with severe illnesses the right to apply to stay in Belgium if they cannot be treated in their country of origin. On 10 September 2013, the Immigration Office declared that the application was admissible. On 23 January 2015, the application was declined. On 28 July 2015, the Aliens Litigation Council annulled the decision on the grounds that the Immigration Office had failed to take into account F.M.'s need for percussive physiotherapy and had not checked whether it was available in Algeria.

2.3 On 22 August 2016, the Immigration Office rejected the application for regularization again. On 14 November 2016, the authors filed an appeal for suspension and annulment, accompanied by a new certificate from a specialist in pneumo-phthisiology in Algeria attesting that F.M.'s treatment requirements far exceeded the equipment available in Algeria and the individual qualifications of healthcare staff. According to the specialist, it would certainly be fatal for F.M. to return to Algeria. The hearing did not take place until 15 January 2019. On 23 January 2020, following numerous reminders from the authors, the Aliens Litigation Council annulled the decision of the Immigration Office on grounds of lack of reasoning.

2.4 On 30 September 2020, the Immigration Office rejected the application for regularization for the third time without, according to the authors, considering the grounds given for the annulment. On 16 November 2020, the authors filed an appeal with the Aliens Litigation Council, which was still pending at the time of submission of this communication.

2.5 The authors claim to have exhausted domestic remedies in filing three appeals for the annulment and suspension of the decision issued by the Immigration Office to refuse regularization. They argue that the Office's three decisions are similar in every respect, and that there was every reason to believe that the outcome of the appeal filed when the present communication was sent would be the same as for the two previous appeals. Their appeals for annulment did not have a suspensive effect, despite their requests in this regard. Furthermore, as there is no time limit established in law, neither the Immigration Office nor the Aliens Litigation Council is required to issue a ruling within a given time frame. The Council thus took 39 months to rule on the authors' second appeal. In their view, a similarly long time frame was unimaginable, which made their situation unbearable, as they lived with the anxiety of not knowing whether F.M.'s state of health would definitively improve. The authors point out that, at the time of submission of the present communication, they had already been waiting seven years for a final decision on their application for regularization. Domestic remedies were therefore unavailable and ineffective.

2.6 On 9 August 2021, that is, after the present communication had been registered by the Committee, the authors informed the Committee that, on 20 July 2021, the Aliens Litigation Council had annulled the decision of the Immigration Office of 30 September 2020 on grounds of lack of reasoning. In particular, the Council found that the Office's medical adviser had not substantiated his claim that a percussive device was not an absolute necessity for F.M. The Council found that it had not been established in any way that F.M. had left the State party once since 2013, and that the medical adviser had committed a manifest error of judgment in finding otherwise.

Complaint

3.1 According to the authors, despite F.M.'s severe disability, she was treated unfavourably because of the authors' administrative situation, in violation of article 2 of the Convention. The lengthy nature of the proceedings, and the fact that the authors were able to work, despite not having the right to work, disproportionately undermined F.M.'s rights and rendered the decisions of the Immigration Office discriminatory. F.M. was treated differently from children with disabilities who received the necessary healthcare and from children who were legally resident in the State party. The authors argue that the Office's negative decisions do not take into account the Committee's general comment No. 9 (2006), according to which States parties should make special care and assistance to children with disabilities a matter of high priority and invest to the maximum extent of available resources in the elimination of discrimination against children with disabilities.[1]

3.2 The authors allege a violation of F.M.'s right to have her best interests taken into account, in accordance with article 3 of the Convention, by the Immigration Office. The Office's medical adviser never saw F.M. and did not contact her doctors in Belgium or Algeria. The medical adviser's opinion was contested by the specialists who attended to her, who felt that the care that she needed was non-existent or inadequate in Algeria. In fact, neither F.M.'s respiratory problems nor her nutritional and digestive problems could be treated there, owing to the lack of access to percussive physiotherapy or tube feeding with a specific type of milk. However, the Immigration Office did not mention the need for this form of physiotherapy and did not take F.M.'s best interests into account.

3.3 According to the authors, the medical adviser acted in bad faith when, on the basis of an Algerian medical certificate, he stated that F.M. could have travelled to Algeria, whereas the certificate referred to a consultation that had taken place several years previously. On the contrary, it is clear from the testimonies and from the fact that she had not been able to attend school that she had never been able to leave Belgium.

3.4 In addition, the Immigration Office told the authors on two occasions that it would not be responsible for compensating for disparities in healthcare by providing free and unlimited healthcare to all foreign nationals who did not have the right to remain in Belgium, despite the obligation to ensure that F.M.'s right to health was central to the assessment of her best interests. On two occasions, the Aliens Litigation Council ruled that the reasons given by the Immigration Office were insufficient, and that the medical adviser used sources that did not sufficiently demonstrate that treatment was actually available in Algeria. However, the latest opinion issued by the medical adviser is no more reasoned than the two previous opinions. A new decision drafted in virtually identical terms would violate the principle of res judicata.

3.5 The authors note that F.M. enjoyed the highest attainable standard of health thanks to the medical care provided in Belgium, in compliance with article 24 of the Convention. However, the national authorities failed to take into account the risk that she would face if she returned to Algeria. Several doctors agreed that this would be catastrophic for her.

3.6 The authors claim that there was a violation of the obligation to protect the rights of the child from a procedural point of view, caused by the negative decisions of the Immigration Office. The present communication was filed seven years after the authors had submitted the first residency application on the grounds of F.M.'s state of health. However,

[1] Committee on the Rights of the Child, general comment No. 9 (2006) on the rights of children with disabilities, para 14 (a).

despite evidence that she was suffering from an illness entailing a real risk to her life or physical integrity, or that she faced a real risk of being subjected to inhuman or degrading treatment if she returned to Algeria, F.M. was not granted a residence permit. The appeals filed do not allow for the suspension of the removal order, and a request for a suspension does not result in the granting of a residence permit, which renders appeals to the Aliens Litigation Council ineffective. The authors recall that, while the Council has some limited power to annul a decision, it cannot replace an annulled decision with another decision. F.M.'s lack of a residence permit meant that, in the long run, her fundamental rights were violated because of a lack of protection provided through effective procedures.[2]

3.7 According to the authors, the Immigration Office is often slow to act after a decision has been annulled by the Aliens Litigation Council. Such situations often involve repeated trips back and forth between the two institutions without the person receiving his or her proof-of-registration document, which entitles him or her to a series of rights. The procedure cited by the authors does not allow for an independent medical expert to appear before the Council. The authors note that the weakness with which the right to an effective remedy is enforced in Belgium for ill people has been criticized by international bodies.[3]

3.8 The authors affirm that, owing to the length of the proceedings, F.M. could not benefit from legal protection to ensure her right to health or to remedy her irregular residence status, which is contrary to the Committee's general comment No. 15 (2013), according to which all obligations under article 24 of the Convention should be fulfilled progressively and as expeditiously as possible.[4] They argue that procedural guarantees, including the right to an effective remedy,[5] are necessary to ensure the best interests of the child. They claim that the State party did not allow F.M. to enjoy her right to health and development as it refused to allow her to remain in Belgium in order to obtain the necessary care. The authors claim that best-interests determinations must take into account standards relating to the rights of persons with disabilities and the Convention relating to the Status of Refugees.[6] In this regard, they recall the Committee's concerns about the ongoing discrimination suffered by children, including those of foreign origin, in the State party and its failure to systematically consider the best interests of the child in decisions concerning children in vulnerable situations.[7]

State party's observations on admissibility and the merits

4.1 In its observations of 12 January 2022, the State party argues that the communication is inadmissible under article 7 (c) of the Optional Protocol in respect of S.M., insofar as she submitted the communication on her own behalf and is an adult.

4.2 The State party claims that the communication is inadmissible under article 7 (f) of the Optional Protocol insofar as it concerns H.M., as no complaint concerning him has been made.

4.3 The State party argues that the communication is inadmissible under article 7 (e) of the Optional Protocol, since the authors have failed to exhaust domestic remedies. Firstly, the authors are confusing their requests for healthcare and social assistance, their requests for residence permits on medical grounds on the basis of article 9 ter of the Act of 15 December 1980, and their possible claims for compensation for any harm that the family may have suffered. Disputes relating to these different matters fall within the competence of different national courts. Only the Labour Tribunal and, subsequently, the Labour Court, have competence to deal with healthcare and welfare matters. Only the Aliens Litigation Council

[2] *C.E. v. Belgium* (CRC/C/79/D/12/2017), para. 7.2.

[3] European Court of Human Rights, *Yoh-Ekale Mwanje v. Belgium*, application No. 10486/10, judgment, 20 December 2011, paras. 106 and 107; and Court of Justice of the European Union, *Centre public d'action sociale d'Ottignies-Louvain-la-Neuve v. Moussa Abdida*, Case C-562/13, judgment of 18 December 2014.

[4] Committee on the Rights of the Child, general comment No. 15 (2013), para. 74.

[5] Committee on the Rights of the Child, general comment No. 5 (2003), para. 24. See also Committee on the Rights of the Child, general comment No. 14 (2013), paras. 50 and 51.

[6] Committee on the Rights of the Child, general comment No. 14 (2013), para. 75.

[7] CRC/C/BEL/CO/3-4, para. 31; and CRC/C/BEL/CO/5-6, para. 17.

has competence to deal with residency matters. The court of first instance is the main body responsible for matters relating to compensation.

4.4 Secondly, according to the State party, the authors do not claim that they were denied any assistance by the competent national authority responsible for applications relating to healthcare and social assistance, nor that they were unable to assert their rights before the Labour Court. On the contrary, F.M. began receiving medical care two months after her arrival in Belgium. According to the State party, the authors contradictorily claim that they lived with the uncertainty of not knowing whether there would be a lasting improvement in F.M.'s state of health. The communication does not specify in what way F.M. was subjected to discrimination, and there is no indication that the national authorities refused to grant her the rights that she claimed. Consequently, the authors have no reason to submit the communication. In view of the fact that F.M. was provided with all the necessary medical care and assistance but did not have a right to reside in the country, the question of whether the authors exhausted all domestic remedies in connection with the residence application or any potential claims for compensation is irrelevant.

4.5 Thirdly, the authors have not exhausted all the domestic remedies available to contest decisions denying residence because they filed the present communication while the appeal for the annulment and suspension of the decision issued by the Immigration Office on 30 September 2020 was pending before the Aliens Litigation Council. The present communication is therefore premature.

4.6 Fourthly, the authors have not exhausted domestic remedies in that they criticize the time taken to process the second appeal before the Aliens Litigation Council. This complaint serves no purpose, as it is settled national case law that the length of legal proceedings does not give rise to any right of residence. Any delay on the part of the national courts in processing a claim can have no consequence other than to result in an order to pay damages to compensate for the harm suffered. The authors do not state that they have challenged the State party for exceeding the reasonable time frame established in article 1382 of the Civil Code. The European Court of Human Rights has recognized that this remedy is effective and must be exhausted before an application can be made to it.[8] The authors are invoking the protracted nature of national proceedings for the first time before the Committee.

4.7 According to the State party, the authors are trying to lead the Committee to rule on F.M.'s application for a residence permit in place of the national authorities, which cannot be admitted. The State party stresses that no provision of the Convention guarantees that a child should have a right to residence on grounds of health. To decide otherwise would deprive national immigration law of any useful purpose and undermine the sovereignty of States. The authors are therefore mistaken if they consider that appropriate redress would involve F.M. being granted de facto authorization to remain in the State party.

4.8 Where the merits are concerned, the State party points out that the authors do not specify what healthcare was allegedly denied to F.M., while her medical records establish that she benefited from a range of essential care and assistance. F.M. was cared for on a daily basis and was recognized as having a disability by the Federal Public Service for Social Security. Furthermore, the authors do not demonstrate that the decisions taken by the Immigration Office were based on F.M.'s irregular residence status, her foreign nationality or her disability as these factors had no bearing on the Office's decisions. The allegation of discrimination under articles 2, 23 and 24 of the Convention is therefore manifestly ill-founded.

4.9 The State party argues that the authors' claim that F.M.'s best interests were not taken into account in the granting of medical, financial and other forms of assistance is not serious in view of the treatment and services provided to her. Moreover, no provision of the Convention requires that residency must be granted. According to the State party, the authors are seeking, under the guise of ensuring that the best interests of the child are taken into account, to have the Committee assess the facts of the case in place of the national authorities. However, the Aliens Litigation Council cannot be considered to have made an assessment

[8] European Court of Human Rights, *Depauw v. Belgium*, application No. 2115/04, decision on admissibility, 15 May 2007.

that is manifestly arbitrary or that amounts to a denial of justice. Furthermore, the authors' argument that F.M.'s best interests would have been disregarded if she had been removed from the State party is premature, as no enforcement measures were taken against her. In any case, F.M.'s best interests were examined in the context of the adoption of a removal order. In a decision issued on 20 July 2021, the Aliens Litigation Council established that her best interests had not been sufficiently taken into account. The claim of a violation of articles 3 and 24 of the Convention is therefore ill-founded.

4.10 The State party argues that the authors' claims concerning the lack of procedural protection for F.M.'s rights are ill-founded. Their argument is mainly based on the claim that, as F.M. was not given leave to remain in the State party, she was unable to obtain the care necessary for her state of health. However, there is no provision granting her such a right. Furthermore, F.M. had access to the care that was essential for her state of health. In addition, the remedies available to challenge a decision rejecting an application for regularization, on the basis of article 9 ter of the Act of 15 December 1980, are effective since they provide an opportunity to brings complaints and obtain an appropriate remedy if the complaint appears to be well-founded (suspension and provisional measures, depending on whether the procedure is extremely urgent or not, and the annulment of the decision in question).

Authors' comments on the State party's observations

5.1 On 24 March 2022, the authors informed the Committee that F.M. had died of septic shock on 20 March 2022.

5.2 In their comments of 13 April 2022, the authors informed the Committee of their wish to continue with the present communication on the grounds that it raises questions of principle concerning the effectiveness of the remedies available in migration matters, that the violation of F.M.'s rights is not extinguished by her death, and that her legal representatives and brother, who is also a child, are still in the State party and are affected by the decisions taken. The authors claim to have a sufficient or legitimate interest in continuing with the communication, as representatives of F.M. and H.M., as they have been involved in the national proceedings for over seven years and have fought for F.M. to receive the necessary care, with a degree of legal certainty, in line with her interests.[9]

5.3 In response to the State party's claim that the communication is inadmissible insofar as it concerns H.M., the authors refer to article 3 of the Convention and affirm that he arrived in Belgium in November 2012 when he was only 2 years old, that he has never left Belgium and that he therefore really only knows this country. He goes to school in Belgium and all his social and family ties are there. His fate is linked to that of F.M., and he remains affected by the decisions taken in relation to her. However, according to the authors, it cannot reasonably be considered that the State party's national authorities have taken their best interests to be a primary consideration. It is in H.M.'s interest not to continue having an illegal residence status in Belgium, where he has lived for almost 10 years. In line with his best interests, his right to respect for his private and family life must be protected. According to the authors, the Convention requires States parties to take into account and protect the position of the child in relation to the State in matters of migration.

5.4 The authors reaffirm that the length of the domestic proceedings is unreasonable, as the family has had to go back and forth between the Immigration Office and the Aliens Litigation Council for over seven years.[10] In the present case, the authors submitted the

[9] See European Court of Human Rights, *Practical Guide on Admissibility Criteria*, which states that "an application lodged by the original applicant before his or her death may be continued by heirs or close family members expressing the wish to pursue the proceedings, provided that they have a sufficient/legitimate interest in the case". For judgments of the European Court of Human Rights, see also *López Ribalda and Others v. Spain*, applications Nos. 1874/13 and 8567/13, judgment, 17 October 2019, paras. 71–73; *Mile Novaković v. Croatia*, application No. 73544/14, judgment, 17 December 2020, paras. 33 and 34; and *X. v. France*, application No. 18020/91, judgment, 31 March 1992, para. 26.

[10] See European Court of Human Rights, *Practical Guide on Admissibility Criteria*, which states that "to conform with the reasonable time principle, a remedy for length of proceedings should not, in

application for regularization on 22 April 2013, and the proceedings were still under way. They conclude that they have exhausted all available and effective domestic remedies. They argue that there is no reason to file a claim for compensation, as this procedure would not have provided a remedy for the complaints made.

5.5 With regard to the substance, the authors note that F.M. benefited from the necessary medical care but that this benefit was "extremely precarious", since neither she nor the rest of the family had a residence permit for Belgium. The authors and H.M. continue to live in a state of uncertainty. The precariousness of their situation, which is related to the decisions of the Immigration Office, complicated F.M.'s life and, by extension, those of the authors and H.M. The care given to F.M. therefore did not allow her to flourish and did not ensure her dignity, in violation of article 23 of the Convention, read in conjunction with article 24. In violation of article 2 of the Convention, this instability entailed discrimination against F.M. in relation to lawfully resident children, who were guaranteed to receive ongoing treatment.

5.6 The authors reiterate that the best interests of the child were not a primary consideration in the assessment carried out by the national authorities, who, according to the authors, refused to give any credence to medical certificates attesting to the unavailability of care in Algeria. By forcing F.M. and the family to go back and forth between the Immigration Office and the Aliens Litigation Council, they refused to acknowledge F.M.'s medical situation. In addition, H.M. is prevented from having a stable childhood in Belgium, despite his ties to the country, which include the fact that F.M.'s remains are there. His distress stems from F.M.'s health problems, which led to her death, and the instability of their situation. According to the authors, under article 9 ter of the Act of 15 December 1980, the State party should have allowed the family to stay in Belgium with a sufficient degree of legal certainty.[11]

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any allegation contained in a communication, the Committee must decide, in accordance with rule 20 of its rules of procedure under the Optional Protocol, whether the communication is admissible under the Optional Protocol.

6.2 The Committee notes the State party's argument that the communication is inadmissible insofar as S.M. submitted it on her own behalf. It notes that the authors submitted the communication on behalf of S.M., F.M. and H.M. and that the authors claim to have been affected by the proceedings themselves. The Committee recalls that the Convention protects the rights of children and not those of adults and considers that the communication is incompatible *ratione personae* with the provisions of the Convention insofar as it was submitted on behalf of S.M.[12] It therefore declares this part of the communication to be inadmissible under article 7 (c) of the Optional Protocol.

6.3 The Committee notes that F.M. died on 20 March 2022, when the communication was being examined. It also notes that the communication largely focuses on alleged violations of her rights under the Convention resulting from decisions by the Immigration Office not to grant her a residence permit on the basis of her state of health. The Committee notes the authors' argument that they still wish to continue with the communication on the grounds that they have pursued domestic remedies for seven years with a view to applying for a residence permit for F.M.; that the communication "raises questions of principle"; that the violation of F.M.'s rights is not extinguished by her death; and that H.M. is affected by the decisions taken. The Committee considers, however, that the issues raised in the initial communication, in particular, the treatment by the national authorities of the application for a residence permit submitted on behalf of F.M. in connection with her state of health, the authorities' assessment of the availability in Algeria of the care that F.M. required, and the length of the domestic proceedings concerning her, are closely linked to the authors' claim

principle and in the absence of exceptional circumstances, last more than two and half years over two jurisdictions, including the execution phase".

[11] See *C.E. v. Belgium*.

[12] *U.A.I. v. Spain* (CRC/C/73/D/2/2015), para. 4.4; *Y. and Z. v. Finland* (CRC/C/81/D/6/2016), para. 9.3; and *G.R. et al. v. Switzerland* (CRC/C/87/D/86/2019), para. 10.3.

that she should have been granted such a permit.[13] The Committee therefore considers that, as F.M. has died, this part of the communication has become moot. In the light of the above, the Committee considers that the authors no longer have sufficient grounds for continuing with the communication insofar as it was submitted on behalf of F.M.[14] In accordance with rule 26 of its rules of procedure under the Optional Protocol, the Committee decides to discontinue this part of the communication.

6.4 The Committee notes that the authors wish to continue with the present communication on behalf of H.M. and that they claim a violation of his rights under article 3 of the Convention relating to the consideration of his best interests by the Immigration Office, which did not grant him a residence permit despite his ties to Belgium. The Committee notes that, although H.M. was included in the application for a residence permit, the substance of the application concerned only F.M.'s medical condition. Furthermore, the Committee notes the absence of any indication that the authors have brought a substantive complaint of a violation of H.M.'s rights under the Convention in domestic proceedings. In this regard, the Committee recalls that authors must make use of all judicial or administrative avenues that may offer them a reasonable prospect of redress. The Committee is of the view that domestic remedies need not be exhausted if, objectively, they have no prospect of success, for example in cases where the claim would inevitably be dismissed under applicable national laws or where established jurisprudence of the highest domestic courts would preclude a positive result. However, the Committee stresses that mere doubts or assumptions about the success or effectiveness of remedies do not absolve authors of their obligations to exhaust them.[15] The Committee notes the authors' argument that domestic remedies are unavailable and ineffective. However, the Committee considers that the authors have failed to substantiate their allegation that they could not have brought claims on behalf of H.M., or that no remedy would have been effective in this respect. Consequently, the Committee considers that the authors have not exhausted all available domestic remedies, as required by article 7 (e) of the Optional Protocol.

7. The Committee therefore decides:

(a) That the examination of the communication is discontinued with regard to F.M.;

(b) That the communication is inadmissible under article 7 (c) of the Optional Protocol, insofar as it was submitted on behalf of S.M., and inadmissible under article 7 (e) of the Optional Protocol, insofar as it was submitted on behalf of H.M.;

(c) That the present decision shall be transmitted to the author of the communication and, for information, to the State party.

[13] See also European Court of Human Rights, *X. v. France*, para. 26.

[14] *Ferrer Manils v. Spain* (CRPD/C/26/D/79/2020), para. 9.

[15] *D.C. v. Germany* (CRC/C/83/D/60/2018), para. 6.5; and *Sacchi et al. v. Argentina* (CRC/C/88/D/104/2019).