

Decisions and Views of the Committee on the Rights of the Child

Family Bonds and Children's Rights

The case of:
Y.B. and N.S. (on behalf of C.E.)
vs. Belgium



Universiteit
Leiden

The original version of this work has been prepared by Chunya Boonyawan, Leoné Genis, Anthoula Giavri and Jennifer Hancock as part of their studies in the Master of Laws: Advanced Studies in International Children's Rights of Leiden University, Academic Year 2022/2023. The published version concerns an edited version published by the Leiden Children's Rights Observatory.

Y.B. and N.S. (on behalf of C.E.) vs. Belgium

C.E. is a child born in 2011 and lives in Morocco. Her mother, who gave birth to her, left her when she was a baby. She does not know her father either. N.S., a woman from Morocco and Belgium, and her husband Y.B., from Belgium, took C.E. into their family. The couple made a complaint to the **Committee on the Rights of the Child*** because they wanted C.E. to live with them in Belgium, but Belgium does not allow C.E. to come, because they do not think N.S. and Y.B. are her parents.

[Click here for full decision](#)

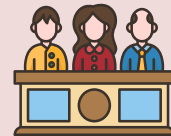


The Committee believes that Belgium did not respect:

The best interest of the child.

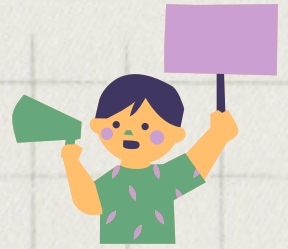
The right to have her opinion listened to and taken seriously.

The right to be with her family.



To-do list for Belgium

- Think again about allowing C.E. to come in Belgium.
- Make sure that this does not happen for other children in the future.



What happened to the Child ?

C.E. (the child) is a Moroccan child living in Marrakesh, Morocco. After her mother left her, Y.B. and N.S. have been taking care of her like her real family. The court in Marrakesh allowed the couple to take care of her under the **Kafalah** system.

Y.B. and N.S. live in Belgium and want the child to live there with them. For a person to live in other countries, they will need permission. The permission is called a **visa**. Y.B. and N.S. tried to get a visa for C.E., but the officials in Belgium did not agree to give her one. The officials did not know the Kafalah system. In Belgium, they only have a system called **adoption**. They said that Kafalah does not legally make C.E. a member of the family, so C.E. is not allowed to live in Belgium with Y.B. and N.S.

Y.B. and N.S., with the help of their lawyer, sent a complaint to the Committee on the Rights of the Child because they believed that not letting C.E. live in Belgium with Y.B. and N.S., who are her family, means that the government of Belgium is not respecting some rights from the Convention on the Rights of the Child. These include:



C.E.'s right to be treated fairly



C.E.'s best interest as a child



C.E.'s right to live together with her family



C.E.'s right to have her opinion listened to and taken seriously



C.E.'s right to special protection when a child can no longer live with his or her parents

Decision of the Committee



Admissibility

When the Committee receives the complaint, it must first check if some rules were followed to allow the Committee to accept the complaint and study if there was a **violation** or not. This stage is called the **'admissibility'**. For example, if the children have not tried to find a solution in their country, the Committee cannot accept the complaint. This means that the Committee will not be able to decide if there was a violation or not.

The Government



- The government of Belgium says that the Committee should not accept the complaint.
- It also says that Y.B. and N.S. had already started to find a solution in Belgium and should wait for the answer.

The Committee



- The Committee has a different opinion.
- The Committee believes that they should not have waited.
- It believes that Belgium has taken many years to give Y.B. and N.S. an answer.
- It also says that this answer was always negative. So, the Committee will check the complaint.



The Committee will check if Belgium has respected C.E's:



right to be treated fairly



best interests as a child



right to live together with her family



right to have her opinion listened to and taken seriously



The Committee will not check the right to special protection when a child can no longer live with his or her parents because this was not explained well enough in the complaint.

Merits

Because the Committee found the admissibility rules had been followed in this complaint, it was able to look and study if there was a violation or not. This stage is called the **'merits'**.



The Committee believes that Belgium did not think of the best interests of C.E. as a child because it did not look into the difficult situation that C.E. lives in. The **biological mother** of C.E. left her when she was a baby and she does not know her father. N.S. and Y.B. are now taking care of her. They are a family now and they live together. They love her, support her and protect her as parents with their children do.



The Committee says that Belgium did not respect the right of C.E. to say her opinion and be given attention. The Committee says that her opinion should have been listened. C.E. was five years old when N.S. and Y.B., for the second time, asked Belgium to allow C.E. to come with them in Belgium. That means that C.E. was at an age that could understand and say her opinion if she wanted to go to Belgium with her family.



The Committee also says that Belgium did not think about C.E. right to stay with her family. The Committee believes that Belgium should have thought about the family relationship between the child and Y.B. and N.S. Family has many meanings and it is not only between a **biological mother**, the child and the father. The relationship between the C.E. and Y.B. and N.S. is also a family relationship. Belgium took too long to decide whether to allow C.E. to come to Belgium to live with her family. This means that Y.B. and N.S. have not been together or shared family moments for a long time.

The Committee said that Belgium should:



The Committee does not find it necessary to check whether Belgium has not respected C.E.'s right to be treated fairly.



Think about allowing C.E. to come to Belgium again as soon as possible.



Listen to C.E.'s opinion and think about what is best for her.



Make sure that no children in the same situation are separated from their families again.

Key Terms

- **Adoption**

The process where an adult or a couple take a child whom they did not give birth to into their families and take care of the child as if they were the parent.

- **Alternative care**

When children can no longer live with their parents, maybe because their parents died or cannot keep the child safe, there will be someone who will come in to take care of the child on behalf of their parents.

- **Biological mother**

The mother that gives birth to her child.

- **Children's rights**

Promises that governments make so children can have a good life.

- **United Nations Convention on the Rights of the Child**

This is the world's biggest set of promises about children's rights.

- **Kafalah**

A system in Islam where a child is cared by other adults when their real parents can no longer take care of them.

- **OPIC - Communication procedure**

A procedure where a child makes a complaint to the Committee on the Rights of the Child, and then the Committee examines this complaint.

- **Violation**

When a person does not keep their promises and does not follow the rules.

- **Visa/resident permit**

A legal paper that allows you to live outside your own country.

- **Committee on the Rights of the Child**

A group of people that test whether the countries keep their promises to make children have a good life.

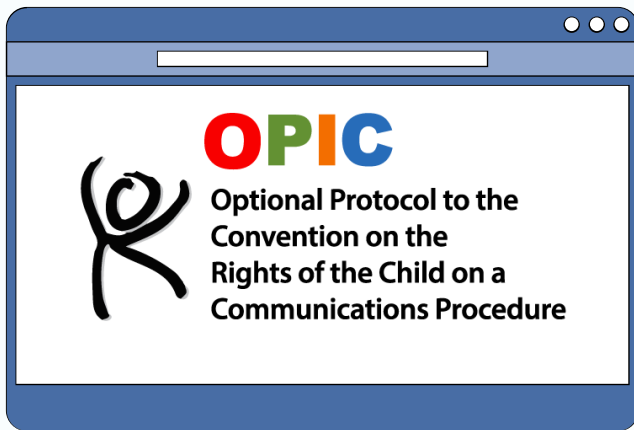
Want to learn more?



Child-friendly page of the CRC Committee



Convention on the Rights of the Child



More information about sending a complaint



Child Rights Connect is an NGO that can provide you more information

Want to contact the Committee ?



Committee on the Rights of the Child (CRC)

Human Rights Council and Treaty Mechanisms Division Office of the United Nations High Commissioner for Human Rights (OHCHR) Palais Wilson - 52, rue des Pâquis CH-1201 Geneva (Switzerland)

Mailing address: OHCHR-UNOG 8-14 Avenue de la Paix, 1211 Geneve 10, Switzerland

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This child-friendly version was developed using the model outlined in Child Rights Connect's template, "[How to Draft a Child-Friendly Version of an OPIC Case.](#)"

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