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

Child Participation and Children's Rights

The case of:

D.C. vs. Germany

Universiteit Leiden

The original version of this work has been prepared by Atchere Asuah-Kwasi, Natasha D'Souza and Akshata Mishra as part of their studies in the Master of Laws: Advanced Studies in International Children's Rights of Leiden University, Academic Year 2021/2022. The published version concerns an edited version published by the Leiden Children's Rights Observatory.

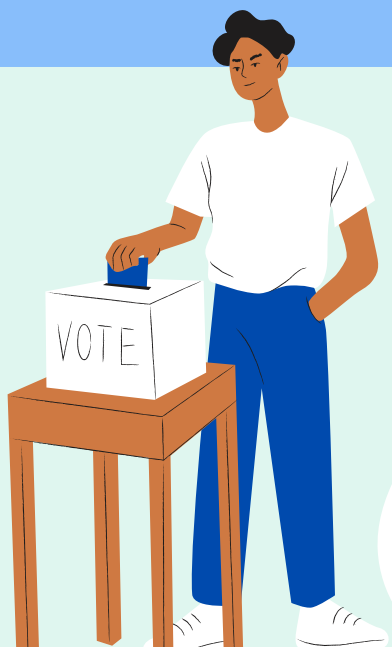
D.C VS GERMANY

Summary

There was a boy named D.C. who was born in Spain on April 12th, 1999. D.C. and his parents moved to a town known as Perl, in Saarland, Germany. He sent a document called a 'communication' to the CRC Committee in August 2018, because he was not allowed to vote (have a say) for who the next leader of Perl would be. D.C. believed that as a 16-year-old, he should be allowed to vote, because in other places in Germany, 16-year-old children are allowed to vote.

When the CRC Committee receives a communication, they must check whether the rules were followed before they could decide whether a child's rights were not respected. The CRC Committee found that D.C. did not follow all the rules before he could send a 'communication'. The rule that D.C. did not follow was that he had not used all national options to solve his problem before he sent the communication to the CRC Committee. The CRC Committee said that everyone must follow all the rules and only then will they decide on any communications sent to them.

The meaning of words in this **colour** can be found under 'Glossary'.



What Happened to D.C?

D.C. moved to Perl, located in Saarland, Germany. When D.C. was 16 years old, he decided he wanted to become more active in his community by voting.

His government did not agree with his choice. D.C. decided to send a document called a 'communication' to the CRC Committee in August 2018.

This document said that a few of his rights under the Convention on the Rights of the Child (CRC) were not respected by Germany. These rights were:

- **Article 2** -
His right to be treated fairly (**non-discrimination**).
- **Article 3** -
His right to have his **best interest** thought of by adults.
- **Article 4** -
His right for the government to make sure he enjoys his rights promised under the CRC.
- **Article 12** -
His right to give his opinion freely on issues that affect him.

D.C. believed that these rights were not respected because his city, Perl, said he could not vote. Voting means having a say.

Through the chart on the next page, follow along D.C's journey to the CRC Committee:

→ →

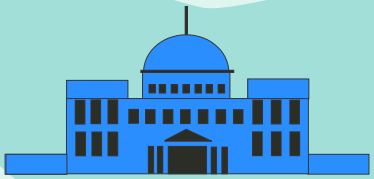
Start at the Bottom!

D.C skipped from step 4 to 7

7) CRC Committee

The CRC Committee found that D.C. did not follow the rule to first use all national options.

6) Federal Constitutional Court



D.C. did not go to the Federal Constitutional Court because he thought they would also say no.

5) Constitutional Court of Saarland

D.C. did not go to the Constitutional Court of Saarland because he thought they would also say no.

4) Higher Administrative Court of Saarland

D.C. asked a more powerful court to look at the decision again, but in November 2017 they also said no and did not explain why.

3) Administrative Court of Saarland

July, 2015: to understand why his rights were not respected, D.C. went to a court. In November 2016, that court agreed with the Town Electoral Office and Town Office.

D.C. was not able to take part in the vote to choose the leader of Perl

2) Perl's Town Office

May 2015: D.C. asked the Town Office to reconsider and allow him to vote. He was told that because of his age, he could not have a say when selecting the new leader of Perl.

1) Perl's Town Electoral Office

April 2015: D.C. asked Perl's Town Electoral Office if he could vote. The office said that because he was not 18 years old, he could not have a say.

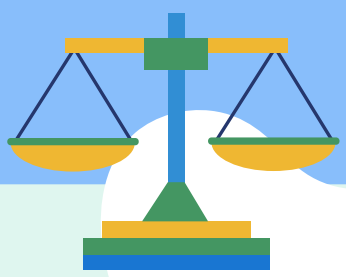
What did the Committee decide on D.C's complaint?

- When the CRC Committee receives a communication, they must check whether the rules were followed before they could decide whether a child's rights were not respected. This stage is called 'admissibility.'
- The CRC Committee had two rules to decide on before they could accept the communication:
    - First, no other international legal group should try to decide on D.C.'s communication at the same time as the CRC Committee.
        - The Committee said that D.C. had not yet looked for help from another group. As this first rule was followed, the communication was accepted.
    - The second rule was to use all of the national options before coming to them.
        - D.C. did not follow this rule, so the CRC Committee could not decide on D.C.'s . communication. Everyone must follow all the rules.

Why did the Committee decide it cannot admit the case?

- The CRC Committee decided it cannot accept D.C.'s communication because one rule was not followed. D.C. should have gone to every possible court in Germany before he could go to the CRC Committee for help.

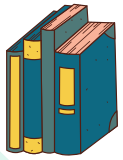
- The CRC Committee found that D.C. had not done this. The CRC Committee decided that it was not okay to skip this rule only because D.C. was unsure if the most powerful courts would agree with him. This meant that D.C. should have gone to the Saarland Constitutional Court or the Federal Constitutional Court, the most powerful courts in the country. This is why the CRC Committee did not accept his communication.



Glossary (Key Terms):

- Administrative Court – A place where a group of adults (judges) make decisions about problems of the people living in their area.
- Best Interest – All adults should always do what is best for you.
- Child's Rights – These are protections every child should have. These allow children to grow as healthy as possible, learn at school, be safe, have their voices listened to, and be treated fairly.
- Communication - A document sent to the CRC Committee which says something is wrong and children's rights are in danger.
- Constitutional Court - The most powerful court in a country. A group of adults (judges) come together to make a decision about problems. Their decision is final, and only certain international groups can be asked to review them.
- CRC Committee – A group of 18 adults that make sure that countries don't break their promises and properly follow the Convention on the Rights of the Child (CRC).
- Convention on the Rights of the Child (CRC) - This is a document that explains children's rights for countries and people to follow. A total of 196 countries have promised to follow it and make sure children get their rights.
- Town Electoral Office - This office is in charge of making sure Perl had a new leader.

Glossary (Key Terms):



- Implementation of Rights - This is when children's rights are not just written on paper but are also there for children to use in their everyday life because their country has made it possible.

- Inadmissibility - Whenever the CRC Committee receives a complaint or communication, it has to first check if some rules were followed that allow it to accept the case and study if children's rights were given or not. This stage is called "admissibility". For example, if the children have not tried to find a solution in their country, the CRC Committee cannot accept the complaint. This means that the CRC Committee will not be able to decide if children's rights were respected or not. The CRC Committee will write a decision showing those rules were not followed and say the complaint or communication is "inadmissible".

- Non - Discrimination - This means that nobody can treat you badly because of your color, sex or religion, if you speak another language, have a disability, or are rich or poor.

- Respected - This means that people treat your rights as important and make sure you can enjoy them.

- Right to be Heard - All children have the right to an opinion, to be listened to and taken seriously. This child's right is written under Article 12 of the CRC.

- Vote/ Voting - Having a say in the decisions of your community, like who will be the leader, by being part of the choosing process.

- Who can send communication - Any person/group of persons who feel that a country has disrespected their rights.

Useful Links:

- Convention on the Rights of the Child (CRC) explained (UNICEF)
- Explanation of every CRC right (UNICEF)
- Another explanation of every CRC right (Save the Children)
- A Message from the CRC Committee
- Official Website of the CRC Committee
- How to get help with reaching the CRC Committee
- Useful Information for Children on the CRC
- The official reply from the CRC Committee to D.C.
- Another summary of D.C. vs. Germany case

Information to contact the CRC Committee:

Telephone: +41 22 917 9220
Email: InfoDesk@ohchr.org

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."

This is an edited version of the original student work, for which the Leiden Children's Rights Observatory assumes full editorial responsibility. This version does not reflect the views of the UN Committee on the Rights of the Child or any of its members, nor does it represent the views of Leiden University or any other entities with which the Leiden Children's Rights Observatory is currently or has previously been affiliated.

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