

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

## Children in Prison and Children's Rights

The case of:  
**D.E.P. vs. Argentina**



Universiteit  
Leiden

The original version of this work has been prepared by Cleïs Meys, Isabelle Oberschulte, Zarifeh Ghasemi Norouzabad and Zhiyue Zou as part of their studies in the Master of Laws: Advanced Studies in International Children's Rights of Leiden University, Academic Year 2023/2024. The published version concerns an edited version published by the Leiden Children's Rights Observatory.

# Case of D.E.P. v Argentina



- This document is about the case of **D.E.P. v. Argentina.**
- In this document you will learn about the rights of **children who are in prison.**

## Summary



This case was brought before the Committee on the Rights of the Child on 1 March 2019. The case was about the rights of D.E.P., a 17-year-old boy, who killed somebody.

As a punishment, D.E.P. was sent to prison for many years. The Committee considered whether this was necessary and whether his rights had been respected. In this document, you will find a clear summary of what happened, what the Committee considered, and what it decided.

Here you can find a link to the case online:

[tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2656&Lang=en](http://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=2656&Lang=en)



## What happened to D.E.P.?

D.E.P., a boy from Argentina born in 1990, felt that his country did not treat him right. He thought that his country didn't follow the special rules for children. These special rules can be found in a text called the **United Nations Convention on the Rights of the Child (Convention)**. D.E.P. wrote a letter to the **Committee on the Rights of the Child** and explained his situation so the Committee would help him. Such a letter is called a “**complaint**”.



D.E.P. killed someone when he was 17 years old. Because killing somebody is a horrible thing to do, a court said that D.E.P. had to go to prison for 15 years.

He was not happy with that decision because he thought the courts had not properly considered his age, the progress he had made, or whether prison was really necessary.

So, he went to another court and complained about it. That court gave him a shorter time in prison: 13 years and 6 months. But D.E.P. was still not happy with that.



So, after nobody in Argentina agreed with him, he sent a complaint to the Committee. In his complaint to the Committee, D.E.P. said that his country broke many rules of the Convention.

D.E.P. believed that putting him in prison for 13 years and 6 months was not respecting these **rights**:

- ✓ **Best interests of the child**
- ✓ Making children's rights real
- ✓ Regular checks on how children are doing.
- ✓ The rights of children who break the law
- ✓ The rights of children in prison

Learn more about these rights in the annex!



## What did the Committee decide on the complaint?

### A) Can the complaint be accepted and studied by the Committee?

Whenever the Committee receives a complaint, it must first check if some rules were followed to allow the Committee to accept the complaint. This part is called “admissibility”.

The most important rules for D.E.P.’s case were:

- ✓ That D.E.P. tried to find a solution in his own country first
- ✓ That Argentinian children have the possibility to write the complaint to the Committee
- ✓ That D.E.P. was still a child, so younger than 18 years, when he killed somebody
- ✓ That D.E.P. can show the Committee **evidence** that Argentina violated the rights he complains about

For the complaint by D.E.P., the Committee decided that he had followed these rules.

### B) Has Argentina violated D.E.P.’s rights?

Now, the Committee can take a look and study if there was a violation or not. This part is called the “merits”.

The Committee first explained what the rights mean. The rights protect children who break the law, like D.E.P. did when he killed somebody. They make sure that:

- ✓ The response should not focus only on punishment. It should also help the child return to society and live responsibly
- ✓ Argentina always thinks about what is best for D.E.P., even if he did something wrong
- ✓ D.E.P. is only sent to prison if nothing else can help him
- ✓ D.E.P. is only sent to prison for the shortest time possible

After that, the Committee studied if Argentina violated these rights. The Committee listened to what D.E.P. had to say and also what his country had to say.



The Committee explained that Argentina should have done two things:

- ✓ Considered other options before sending D.E.P. to prison and explained why prison was really necessary.
- ✓ Checked regularly whether D.E.P. still needed to stay in prison and whether he could be released earlier.

Because Argentina had not done these two things, the Committee decided that D.E.P.'s rights were violated.

The Committee then studied if Argentina was making children's rights real for children who break the law: Other people already told Argentina that the rules for children who break the law need to be better. The Committee also thought so and decided that Argentina was not making children's rights real for children like D.E.P. This was another violation.

## What did the Committee tell Argentina to do to fix the situation?

### A) What did the Committee tell Argentina to do to help D.E.P.?

The Committee said that Argentina should take effective steps to put things right for D.E.P. because his rights had been violated.

### B) What did the Committee tell Argentina to do to make sure this doesn't happen to any other children in the country?

To stop the same violations from happening in the future, the Committee asked Argentina to:



- ✓ Make the rules for children who break the law better
- ✓ To only send children to prison if nothing else can help them to learn not to break the law
- ✓ To only send children to prison for the **shortest time possible**
- ✓ Check their sentence regularly to decide whether they still need to stay in prison.

# Annexes

## 1. Which rights were important for D.E.P.?



### Best interests of the child

When adults make decisions, they should think how they affect children and of what is best for them.



### Making children's rights real

My country must make sure that children's rights are protected.

My country must make sure other people respect children's rights.



### If a child breaks the law, she or he has the right not to be punished in an unnecessary way

If children break the law, countries should make sure that they are treated fairly, are kept safe and not put in prison with adults.



### The rights of children who break the law

There should be a special justice system for children.

Children should only be kept somewhere they are not allowed to leave as a last resort.

## 2. Explanations and definitions

### What is the United Nations Convention on the Rights of the Child?

The United Nations Convention on the Rights of the Child is an agreement by countries who promise to protect the rights of children all over the world. It is important because it explains what rights all children have, that they cannot be taken away from them and that countries must respect them. In this document, the word for this agreement is “Convention”.

### What is the Committee on the Rights of the Child and how can it help children?

Because the Convention is so important, there is a group of people who make sure that all countries are making children’s rights real. This group of people is called the Committee on the Rights of the Child. Even though they are adults, they know a lot about children’s rights.

When a country is not making rights real for a child, that child can write to the Committee, like D.E.P. did here. The Committee then studies what the child and country say and decides if and what the country needs to do better.

### What is a right?

A right is something that tells a country how to treat a person. Rights protect people and are supposed to make sure that nobody gets hurt. When a country is treating somebody in a way that’s goes against a right, that is called a violation. If a person’s right is violated, they can complain. The rights that are especially for children are called children’s rights.

### What is a complaint?

When a country does not respect your right and violates your right, you can write a letter to the Committee and ask for help. This letter is called a complaint.

### What is evidence?

The Committee does not live in the child’s country and does not see what the child sees. So, the child needs to show the Committee that the rights violation they are complaining about is real. They can do that by sending the Committee papers or pictures that show things which are important for the rights violation. These papers and pictures are called evidence.

## What does the term “shortest possible time” mean?

This term means that the child sometimes can be sent to prison but only as long as it takes for them to understand what they did wrong and to learn not to do it again.

## Why did D.E.P. get money from his country?

D.E.P should not have been punished like that. But that is in the past and the government can't time-travel and make that violation not happen. So, because all problems caused by a violation can't be fixed directly, money is often the best solution to make sure that the person gets something for all the trouble they went through.

### 3. If you want to learn more

- ✓ Link to the special rules for children (Convention on the Rights of the Child):

[cypcs.org.uk/rights/uncrc/articles/](https://cypcs.org.uk/rights/uncrc/articles/)

- ✓ Find out more about the Committee and its members:

[www.ohchr.org/en/treaty-bodies/crc/information-children](https://www.ohchr.org/en/treaty-bodies/crc/information-children)

- ✓ Find out more about writing a complaint to the Committee:

[opic.childrightsconnect.org/resources-for-children/](https://opic.childrightsconnect.org/resources-for-children/)

- ✓ Learn more about children's rights:

[www.cypcs.org.uk/rights/international-human-rights-framework/](https://www.cypcs.org.uk/rights/international-human-rights-framework/)

- ✓ Learn more about children who stand up for their rights:

[www.cypcs.org.uk/rights/child-human-rights-defenders/](https://www.cypcs.org.uk/rights/child-human-rights-defenders/)

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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