



Convention on the Rights of the Child

Distr.: General
7 March 2024

Original: English

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. 212/2023**, ***

<i>Communication submitted by:</i>	S.S. (represented by counsel, David Matas and Sarah Teich)
<i>Alleged victim:</i>	Y.K.S.
<i>State party:</i>	Türkiye
<i>Date of communication:</i>	18 January 2023 (initial submission)
<i>Subject matter:</i>	Separation of child from imprisoned mother
<i>Articles of the Convention:</i>	3, 6, 9, 23 and 24

1. The author of the communication is S.S., a national of Türkiye born in 1987. He submits the communication on behalf of his son, Y.K.S., also a national of Türkiye, born in 2016. The author alleges that the State party has violated the rights of Y.K.S. under articles 3, 6, 23 and 24 of the Convention. The author is represented by counsel. The Optional Protocol to the Convention on the Rights of the Child on a communications procedure entered into force for the State party on 26 March 2018.

2. Y.K.S.'s mother, G.S., was arrested on 14 February 2017 on charges of belonging to an armed terrorist organization (Fethullah Gülen movement). She was immediately released pending trial. On 30 March 2018, G.S. was convicted of membership of an armed terrorist organization and was sentenced to six years in prison. Her appeal was rejected on 22 June 2018. Her subsequent appeal to the Supreme Court was also rejected, on 13 October 2022.

3. On 24 October 2022, Y.K.S. was diagnosed with Ewing sarcoma, a form of bone cancer. He has been receiving treatment and was hospitalized at the time of submitting his communication to the Committee.

4. On 8 December 2022, G.S. requested the suspension of her prison sentence in order to support Y.K.S. as he underwent treatment. She claimed that there was no one else to care for the child. On the same date, her petition was rejected by the Bilecik Chief Public Prosecutor's Office, without any reasons being provided. Her appeal was rejected on 15 December 2022 by a court in Bilecik, again without any reasons being provided. On

* Second reissue for technical reasons (1 May 2024).

** Adopted by the Committee at its ninety-fifth session (15 January–2 February 2024).

*** The following members of the Committee participated in the examination of the communication: Suzanne Aho, Aïssatou Alassane Moulaye, Thuwayba Al Barwani, Hynd Ayoubi Idrissi, Rinchen Chopel, Rosaria Correa, Bragi Gudbrandsson, Philip Jaffé, Sopio Kiladze, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, Ann Skelton, Velina Todorova, Benoit Van Keirsbilck and Ratou Zara.



16 December 2022, G.S. was placed in detention. G.S. appealed to the Bilecik High Criminal Court, alleging that her separation from her son would cause irreparable harm to the child as he was suffering from a life-threatening illness. That appeal was pending at the time of submission of the present communication.

5. The author submits that by failing to release G.S., the State party violated the rights of Y.K.S. under articles 3, 6, 8, 23 and 24 of the Convention to receive the necessary care and protection for his well-being, to survival and development, not to be separated from his mother, and to the enjoyment of the highest attainable standard of health. The author also claimed that national judicial decisions had failed to take Y.K.S.'s best interests into consideration. The author requested interim measures consisting in the immediate release of G.S. to avoid irreparable harm to Y.K.S.'s health and well-being.

6. Pursuant to article 6 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, on 20 January 2023, the Committee, acting through its working group on communications, registered the communication and invited the State party to submit observations on the author's request for interim measures.

7. On 3 February 2023, the State party provided observations on the request for interim measures. The State party noted that G.S.'s request for suspension of her prison sentence had been rejected because it failed to comply with national legislation, which provides that the provisions on suspension of the execution of a sentence are not to be applied in respect of persons convicted of intentional offences punishable by more than three years' imprisonment or of terrorism-related offences. However, compassionate leave was granted to G.S. to visit her son in hospital on 30 December 2022 and 25 January 2023. The State party informed the Committee that G.S. had filed applications to the Constitutional Court on 30 December 2022 and 5 January 2023, with the latter application including a request for interim measures, which was still pending at the time that the State party submitted its observations to the Committee.

8. On 10 February 2023, the Committee, acting through its working group on communications, rejected the request for interim measures that the author had submitted under article 6 of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. On 27 February 2023, the author submitted a new request for interim measures, which was also rejected by the Committee, acting through its working group on communications, on 13 March 2023.

9. On 20 March 2023, the State party submitted its observations on the admissibility of the communication and requested that the admissibility be examined separately from the merits.

10. On 23 April 2023, the author informed the Committee that G.S. had been released, enabling her to care for Y.K.S., and withdrew the communication.

11. On 10 May 2023, the State party informed the Committee that Law No. 5275 on the Execution of Penalties and Security Measures had been amended on 5 April 2023 by the addition to it of article 16A, which concerned "postponement of the sentence of a female convict due to her child's illness". Pursuant to this new article, "the prison sentence of a female convict who has been sentenced to imprisonment for a total term of 10 years or less ... may be postponed for a period of up to one year" under certain conditions, including in cases where the female convict has a child under the age of 18 who is in need of care due to disability or suffers from a serious illness". On the basis of this new provision, on 18 April 2023, the Bakırköy Chief Public Prosecutor's Office ordered suspension of the execution of G.S.'s sentence for a period of one year.

12. At its meeting on 26 January 2024, the Committee, having considered the fact that the prison sentence imposed on Y.K.S.'s mother had been suspended for a year and that she had been released in order to allow her to care for Y.K.S., and concluding that the subject matter of the communication had therefore become moot, decided to discontinue the consideration

of communication No. 212/2023, 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.
