



Permanent Mission
of the Federal Republic of Germany
to the Office of the United Nations and
to the other International Organizations
Geneva

Ref.: Pol-11-Pol 504.12 SE

(please quote when answering)

Note No. 159/2021

Note Verbale

The Permanent Mission of the Federal Republic of Germany to the Office of the United Nations and to the other International Organizations in Geneva presents its compliments to the Office of the High Commissioner of Human Rights and has the honour to refer to the joint communication from Special Procedures, Ref. AL DEU 1/2021 dated 25 January 2021, and our Verbal Note No. 46/2021 with Ref. Pol-10-504.12 SE.

The Permanent Mission of the Federal Republic of Germany is pleased to transmit herewith the response of the Government of the Federal Republic of Germany.

The Permanent Mission of Germany to the Office of the United Nations and to the other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner of Human Rights the assurances of its highest consideration.

Geneva, 10 August 2021



To the
Office of the High Commissioner of Human Rights
Palais Wilson
Geneva

Special Rapporteur on the rights of persons with
disabilities and Special Rapporteur on the right to
education
United Nations Human Rights Special Procedures

Palais des Nations
1211 Geneva 10
Switzerland

By email: registry@ohchr.org

5 August 2021

OBSERVATION

REGARDING THE COMMUNICATION BY THE SPECIAL RAPPORTEUR ON THE RIGHTS OF PERSONS WITH DISABILITIES AND THE SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION

on
Ms. [REDACTED] (AL DEU 1/2021)

Dear Mr. Quinn and Ms. Barry,

Thank you for your understanding and for granting us the time to respond your letter.

As already stated in our last letter, Germany takes this matter very seriously. In order to respond to your questions, we have engaged the Ministry of Social Affairs, Labour, Health and Demography in Rhineland-Palatinate, which has compiled the available information in cooperation with the State Commissioner for the Affairs of Persons with Disabilities, the Ministry for Education and the Ministry for Family, Women, Youth, Integration and Consumer Protection, the School authority and the Youth Welfare Office in Rhineland-Palatinate.

In general, it is to be noted that it is a policy objective of the state government of Rhineland-Palatinate (“Landesregierung”) to realise participation, to implement equality and to enable self-determination of persons with disabilities. According to the motto “Living like everyone – right in the middle from the start”, the state of Rhineland-Palatinate – as provided for by the CRPD – aims at placing persons with disabilities in the centre of all considerations concerning them. This applies from the very beginning and in all areas of life. Taking into account their individual needs, persons with disabilities are supposed to be able to live together with persons without disabilities and shall receive the individual support they need.

The paradigm shift initiated by the CRPD – away from pure care and towards self-determination – is continuously implemented in Rhineland-Palatinate. For this reason, the state of Rhineland-Palatinate is committed to inclusion – the comprehensive participation of persons with disabilities in all areas of life such as work, education, housing, leisure and culture. Persons with disabilities have been equal partners in the development of the State’s policy for persons with disabilities from the very beginning.

As a further step, the state of Rhineland-Palatinate enacted the State Act on Equality, Inclusion and Participation of Persons with Disabilities (State Inclusion Act – “Landesinklusionsgesetz”), which came into force on 1 January 2021. This statute takes into account the aims and principles of the CRPD and develops structural and concrete targets for its implementation in the state of Rhineland-Palatinate. It takes up suggestions from the relevant stakeholders and incorporates rules deriving from the Federal Disability Equality Act (“Behindertengleichstellungsgesetz”) and disability equality acts of other Federal States. The aim of the State Inclusion Act is to eliminate and prevent discrimination of persons with disabilities even more effectively. It is intended to ensure equal participation of persons with disabilities in society and enable them to live a self-determined life.

With respect to the case of [REDACTED] Germany wishes to state at the outset that, in the meanwhile, a consensual solution has been found that particularly respects [REDACTED] wish to attend a mainstream school. It has been agreed by the parties involved that [REDACTED] may attend a special focus school (“Realschule plus”) in Kobern-Gondorf as of the school year 2021/2022. For the details of this development, please refer to our response to your second question (see below).

Regardless of this, we are honoured to respond to your questions.

I. Question No. 1: “Please provide any additional information and any comment on the above-mentioned allegations”

Before we address the individual allegations to which you refer in your letter, we allow ourselves to make some general observations as to the factual background of the matter as it appears from the perspective of the competent German authorities:

1. The case of [REDACTED] was dealt with by three independent courts, which have decided, after hearing all the parties involved. In view of all three courts, the case is rather not a matter of [REDACTED] right to an inclusive education, but a question of the lacking capacity of her mother to decide on this question in an adequate way. All involved persons and authorities have seen a danger to the best interests of [REDACTED] due to the behaviour of her mother. It was therefore decided to partially withdraw parental custody in the interest of [REDACTED]
2. In 2012, 2014 and 2018, procedures were carried out to determine [REDACTED] special educational needs. In the reports prepared for this purpose, an intelligence quotient of 70 or 74 was determined for [REDACTED]. Furthermore, the need for special education was identified first in the area of learning, later in the area of social-emotional

development and in the educational program for vocational maturity. Her mother insisted on an inclusive education for her and rejected every special educational offer provided at the school. The school, the teachers, and the disability officer have gained the impression that her mother made overambitious demands on [REDACTED] which had led to her being overtaxed.

3. On 28 June 2018, the Youth Welfare Office of the City of Koblenz applied for a preliminary injunction to completely withdraw parental custody of [REDACTED] mother from her and to order official guardianship. The Youth Welfare Office claimed a risk to the best interests of [REDACTED] and based this on the fact that [REDACTED] mother exerted constantly and steadily enormous pressure to perform on [REDACTED]. According to expert opinion, [REDACTED] had a considerable need for support and clear deficits in her development. She showed the impression of despair, sadness and lack of zest for life up to the expression of suicidal thoughts. Her mother had so far only insufficiently accepted and/or rejected clearing and assistance offers of the co-workers of the Youth Welfare Office. Thus, [REDACTED] mother had registered [REDACTED] in a grammar school, despite the elementary school's recommendation for a mainstream "specialised" secondary school (Realschule plus), [REDACTED] enormous need for support as well as the deficits in her development. Her attendance of the elementary school had already created substantial problems and required the involvement of an integration assistant. [REDACTED] had to leave the grammar school already after about three months due to an imposed permanent exclusion because of attacks of [REDACTED] on schoolmates. Since then, she has been attending the "Albert-Schweitzer-Realschule plus" – also with considerable difficulties in [REDACTED] behaviour with her fellow students and teachers.
4. The family law division of the Koblenz Local Court (Decision 24 August 2018 - 208 F 108/18) thus imposed on [REDACTED] mother in its decision of 24 August 2018 inter alia:
 - to support [REDACTED] in the course of her school attendance; to make sure that the compulsory school attendance is observed; to attend meetings with the teachers, the school management and the school authority; to submit requested statements in a timely manner and to ensure the availability for the school, the teachers and the school authority,
 - to participate constructively within an ambulant clearing in her household; to attend appointments; to participate in discussions and to give promptly requested explanations,
 - to apply for the approval of an integration assistant and, once approved, to cooperate constructively with him/her, to attend appointments and discussions, to submit requested statements promptly and to ensure availability.

5. Later, the Youth Welfare Office claimed a danger to the best interests of [REDACTED] and requested again the complete withdrawal of the parental custody. The Youth Welfare Office explained that [REDACTED] was pedagogically not approachable. She had continued to be highly conspicuous at school and was in a “quasi-symbiotic relationship” with and dependent on her mother. [REDACTED] mother did not sufficiently participate in the efforts of the institutions involved to prevent a danger to [REDACTED] best interests.
6. The official representative for the proceeding appointed by the Family Court on 9 July 2019 was in favour of [REDACTED] change to a special school for children with disabilities and requested to partially withdraw parental custody if her mother did not support this decision.
7. [REDACTED] mother contradicted the view of the Youth Welfare Office and stated that she did everything to support [REDACTED]. The Family Court heard all parties involved during oral hearings from 15 August 2019 to 7 November 2019. In its decision of 7 January 2020 (208 F 162/18), the family law division of the Koblenz Local Court withdrew [REDACTED] mother’s right to apply for youth welfare measures, the right to make applications according to the German Social Code (SGB), the right to regulate school matters as well as the health care for the minor [REDACTED] and, insofar as these rights were withdrawn, ordered supplementary guardianship and appointed the Youth Welfare Office of the City of Koblenz as the supplementary guardian.
8. The Koblenz Local Court was convinced that the best interests of [REDACTED] were at risk because her mother showed a lack of understanding to the necessity of certain support measures and was still not willing to cooperate. A latent danger to the best interests of [REDACTED] had already become apparent during the preliminary injunction proceedings, and this danger has intensified further in the following period. For example, the specialist for child and adolescent psychiatry and psychotherapy, psychotherapist, Angelika Rischar, described [REDACTED] as having below-average abilities to slight intellectual disability in her expert opinion of 2 April 2019. She recommended support through an integration assistant, as [REDACTED] mental health deviated for more than six months from the typical state in her age and her participation in society was impaired. All teachers and school social workers described [REDACTED] as permanently overstrained. She showed the nature and behaviour as well as the physical and cognitive abilities of an infant. The constant excessive demands lead to aggressive behaviour towards her classmates and teachers. It seems that [REDACTED] was instructed by her mother not to let herself be helped. The co-workers of the Youth Welfare Office did not expect a positive development of [REDACTED] mother, since she participated only superficially in assistance measures.
9. According to the Koblenz Local Court, [REDACTED] mother tried, in her view, to support [REDACTED] and had decided in favour of promoting her at school through inclusion. However, over a long period of time, [REDACTED] was overstrained at school, with considerable effects on her behaviour towards classmates and teachers. The feared endangerment of the best interests of the child, which had already existed for some

time, has manifested itself in the meantime and become more concrete. For this reason, the partial withdrawal of parental custody to avert a danger to the best interests of the child seemed to be necessary. Less drastic measures were not suitable to avert the danger for [REDACTED]

10. [REDACTED] mother appealed this decision to the Koblenz Higher Regional Court. Her complaint was dismissed on 13 May 2020 (13 UF 97/20). The Koblenz Higher Regional Court found that the Court of first instance had rightly assumed that the physical and mental well-being of [REDACTED] was objectively and lastingly at risk by the failure of her mother. The Court found that despite constant advice and contrary instructions from all the specialists involved, she constantly exerted enormous pressure to perform on [REDACTED]. The latter was permanently overstrained, aggressive, sad, desperate and without any zest for life. Since the beginning of her primary schooling, massive problems and irregularities in [REDACTED] behaviour and development had become apparent. Despite several socio-pedagogical tests, the subsequent diagnoses (special educational needs due to so-called “learning disabilities” and “emotional-social deficiencies”, IQ of about 70), already highly problematic attendance of elementary school as well as the recommendation that [REDACTED] was not adequately taught in a mainstream school and that she should attend a special school, her mother registered her at the grammar school “Hilda-Gymnasium” in Koblenz. This approach clearly showed that [REDACTED] mother was not able to perceive and realise the abilities and needs of her own daughter and to act accordingly. She was also not willing or able to accept, reflect and implement advice, suggestions and offers of help from the specialists involved. Rather, she put her own completely unrealistic needs and wishes – [REDACTED] should graduate from grammar school and study at university – in the foreground, without even noticing that her daughter suffered from her behaviour. In addition, after [REDACTED] had failed in grammar school after shortest time and a permanent exclusion from school had been ordered, her mother again did not follow the recommendations of the specialists. When she registered her daughter at the “Albert-Schweitzer-Realschule plus”, she did not mention the learning disability of her daughter and did not inform the teachers. It therefore came to substantial irregularities in the behaviour of [REDACTED] which again caused a temporary suspension from school. All teachers describe a constant overstraining of [REDACTED] due to the enormous pressure to perform that her mother exerted on her. [REDACTED] often did not want to go home, cried, was very desperate and even expressed suicidal thoughts.

11. The Koblenz Higher Regional Court found that [REDACTED] mother – contrary to her statements in the appeal motion – had fulfilled none of the requirements imposed on her by the Koblenz Local Court’s ruling. Instead, from her mother’s behaviour since the beginning of [REDACTED] school career, it was evident that the situation for [REDACTED] over all these years was intolerable and no improvement whatsoever could be achieved for her. There was rather a hardening of the constant overstraining and fear of her mother’s reactions accompanied by a very low-value self-image of [REDACTED]

Her mother has not been able to realise her daughter's special needs at any time and to act accordingly to the advice, suggestions and offers for help from the specialists. She held the teachers solely and exclusively responsible for [REDACTED] failure at school. [REDACTED] mother was incapable of realising that [REDACTED] well-being was at risk. Rather, it became evident during the course of the entire proceedings that she was only willing to take action for the well-being of the child, such as applying for an integration assistant, under the impression of the court proceedings and massive pressure. The Court therefore assumed that [REDACTED] mother would have terminated any support measures immediately, if the custody rights had remained with her. She is not able to perceive the needs of [REDACTED] even in the slightest. Instead, she put her own needs above those of the child. [REDACTED] mother was unable to realise that [REDACTED] was desperate, sad and without a zest for life because of the great pressure to perform that her mother exerted on her, and that she had even expressed suicidal thoughts. This was further emphasized by the fact that [REDACTED] mother had a completely different perception of her daughter in contrast to the specialists. She described her as cheerful and also quite willing to perform. According to the Koblenz Higher Regional Court, the decision of the Koblenz Local Court did not violate any of [REDACTED] wishes expressed during the personal hearing or disregarded her will (Decision of the Koblenz Higher Regional Court 13 May 2020 - 13 UF 97/20).

12. Following this decision, [REDACTED] and her mother filed a constitutional complaint and at the same time applied for an interim relief before the Federal Constitutional Court. They invoked a violation of article 6 (2) of the Basic Law (Grundgesetz – GG) (“Parental education”), article 3 (3) sentence 2 of the Basic Law (“Non-discrimination because of disability“) and article 2 (1) in conjunction with article 1 (1) of the Basic Law (“Right to privacy”). Furthermore, they invoked a violation of the right to choose freely between inclusive education and attendance at a special school (section 59 (4) Rhineland-Palatinate School Act).
13. The application for interim relief was rejected by the Federal Constitutional Court on 16 July 2020 (1 BvR 1525/20) because the weighing of consequences, necessary in a proceeding for interim relief, showed that the disadvantages for the welfare of [REDACTED] that would occur if interim relief was not granted but the constitutional complaint was later successful, were less serious than the consequences that would result if interim relief was granted but the constitutional complaint was later unsuccessful. Thus, the Federal Constitutional Court did not decide on the merits of the case yet, but merely carried out a balancing of consequences, without, however, predetermining the prospects of success in the main proceedings.
14. The main action proceedings are still pending. Until the Federal Constitutional Court renders a decision, the Federal Government and all organs of the federal states (“Länder“) are bound by the legally binding decisions of the courts.

As to the individual allegations stated in your letter, they refer to actual incidents. Nonetheless, they tend to neglect the circumstances and backgrounds that led to them and therefore cast the events in a false light. The account given by [REDACTED] and her mother consequently gives rise to a number of rectifications:

Allegation:

[REDACTED] was only allowed to attend 3 hours of lessons per day at the beginning of the school year 2018/19 until she was suspended from school, although she had expressly emphasised that she wanted to attend the whole school day, and that she had not been given the opportunity to make up the missed school material in any other way. The reason given by the school authorities was that [REDACTED] was not able to concentrate for a whole school day without an integration aide. However, it has been emphasised that the Youth Welfare Office had withdrawn integration assistance for [REDACTED] in 2014 because it could (only) be granted if she attended a special school.

Response:

This allegation is not accurate:

1. [REDACTED] attended the Albert-Schweitzer-Realschule plus in Koblenz from 6 November 2017. From 15 August 2018, the timetable of the class was reorganised in such a way that [REDACTED] could take part in the lessons in German, mathematics, English, fine arts, science, social studies and religion for 3 hours a day while receiving individual support from teachers. This shortened attendance was determined because, in the view of all those involved, [REDACTED] appeared to be unable to cope with the school routines (*inter alia* change of teacher for different subjects, change of classroom). She was involved in numerous verbal confrontations and aggressive physical attacks on classmates and teachers. In general, she was overstrained by the demands of the lessons in school. Furthermore, she was regularly late for class. The reduction of lessons was implemented with [REDACTED] mother's consent. Her mother, however, opposed to an adaption of her daughter's learning requirements to her actual ability but insisted to apply the regular learning targets to her daughter. As an accompanying measure, [REDACTED] mother was offered assistance in applying for integration support at the responsible social welfare office. [REDACTED] shortened attendance took place during the first half of the school year 2018/2019. Afterwards, further measures were determined within the framework of a round table. A school exclusion procedure which had been envisaged was not pursued as it was considered not to be constructive.
2. It is true that from 15 April 2013 to 26 July 2014, [REDACTED] received school integration support 17 hours per week at the primary school she attended at the time. [REDACTED] development and the test results available at the time led the professionals involved to the decision that [REDACTED] could not be adequately supported at a mainstream school. [REDACTED] support needs were so broad and intense that she was unable to meet the

requirements of the mainstream school system, even if school integration support was provided. As the pressure to perform and the psychological strain resulting from these requirements could not be compensated in spite of a wide range of help and support measures, [REDACTED] change to a special school with an appropriate concept, small classes and trained teaching staff was finally considered.

3. Based on the professional assessment, the responsible authorities were convinced that remaining in the mainstream school system was detrimental to [REDACTED] well-being. For this reason, the school integration assistance was terminated.
4. As regards the school integration assistance applied for in 2018, it is to be noted that this application could not be considered because [REDACTED] mother failed to submit a current medical testimonial, which is required by Section 35a of the German Social Code (“SGB”) VIII. Section 35a SGB VIII is the legal basis for granting integration assistance (“Eingliederungshilfe”).

Allegation:

On 12 August 2020 (before the start of the new school year), [REDACTED] met with her supplementary guardian and stated again that she did not want to visit a special school. She then had to attend a special school from 17 August 2020. By 25 January 2021, the supplementary guardian had not contacted her again and had not been informed about her situation. By 25 January 2021, she had not received a reply to her letter to her supplementary guardian of 23 November 2020, in which she again drew attention to her situation.

Response:

This allegation is not accurate:

1. After the special educational needs assessment [REDACTED] was assigned to the Diesterweg School in Koblenz on 10 August 2020 by the ADD (Koblenz School Inspectorate Branch), a school with the focus on learning and social-emotional development. The meeting with the supplementary guardian took place on 12 August 2020 at the Youth Welfare Office. [REDACTED] her mother, Mr. Wilhelm, her lawyer from the law firm LATHAM & WATKINS, Ms. Corinna Ruffer (Member of Parliament of the Green Party) participated at the meeting. The assertions that the supplementary guardian had not been in touch with her by 25 January 2021 and had not informed himself about her situation are not correct. [REDACTED] had told the supplementary guardian several times that she did not want to talk to him. The supplementary guardian had made several attempts to contact her at school and had always failed due to [REDACTED] refusal to talk to him.
2. [REDACTED] also refused another invitation to talk about the school situation. It was planned to have a discussion involving the school social worker of the Diesterweg School, as the Youth Welfare Office had gained the impression that [REDACTED] had a good contact to her.

3. The Youth Welfare Office was, however, informed by the school social worker that [REDACTED] did not want to establish contact with her supplementary guardian. On 11 January 2021, the Youth Welfare Office had written to the [REDACTED] family and offered several proposed dates for a meeting. To date, the Youth Welfare Office has not received any response to these proposals.

Allegation:

[REDACTED] suffers a lot from her situation and feels discriminated against and unchallenged at the special school. In protest, she refused to cooperate in class in October 2020. This was sanctioned by the teachers and the school management with the prohibition of drinking in class, to use the toilet and to go outside during the break. Furthermore, she was made to stand or sit in the corridor outside the classroom or had to stay at school on Friday afternoons after classes have ended.

Response:

These allegations are not accurate:

1. As far as drinking in class and using the toilet is concerned, limitations stem from the rules to prevent the spread of the coronavirus. Upon request, pupils may remove their face masks and drink in class close to an open window and with sufficient distance to the other pupils. For this purpose, the pupils report by hand signal that they wish to drink and receive permission from the teacher. [REDACTED] made regular use of this possibility. This rule is based on the current 7th Corona hygiene plan for schools in Rhineland-Palatinate dated 22 February 2021 (point 2.1 “Exception to the mask requirement”).
2. Also, the use of toilets is regulated by the abovementioned Corona hygiene plan which provides that “gatherings of people in the sanitary area [...] shall be avoided” (point. 3.3. “Hygiene in the sanitary area”). The house rules of the Diesterweg School provide the following: “As a rule, we use the toilets only during breaks and keep them clean.” In exceptional cases, however, pupils may also go to the toilet during the lessons. This is to avoid gatherings of pupils in front of the sanitary facilities during school breaks. Accordingly, also [REDACTED] was allowed to use the toilet during lessons upon request.
3. As far as [REDACTED] was once forbidden to go outside during the break, this had the following background: One day in the first school semester, [REDACTED] repeatedly disregarded the school and class rule “We treat each other politely” (House Rules of the Diesterweg School). Consequently, she was told not to go to the schoolyard during the regular break. This measure was intended to prevent possible conflicts during the break. In case of a breach of rules, a teacher may order the pupil to stay in a recreation room during the break. In this room, a teacher specially assigned for this purpose is in charge of supervision. This measure was explained to [REDACTED] The

measure was based on the school regulations of the state of Rhineland-Palatinate for special schools (Section 77 “Breaches of order at school”, point 1-3).

4. Furthermore, also the incidences where [REDACTED] had to wait outside the classroom and had to stay in school on Friday afternoon each had their specific backgrounds:
 - a. As to the first incidence, this was preceded by a fierce battle of words between [REDACTED] and some of her classmates, which took place before the start of the lesson when the pupils were walking to the classroom together. The situation threatened to escalate. Therefore, the teacher separated the conflict parties for their own safety. Supervision was constantly guaranteed. [REDACTED] was permitted to come back into the classroom at any time. The spatial separation of the disputants was meant to be a de-escalation measure. It was intended to pave the way for a peaceful and reasonable discussion of the conflict issue. In no way was the measure considered a sanction. This was also communicated to [REDACTED]. The conflict was finally resolved in the class council.
 - b. The second incidence was prompted by misbehaviour of [REDACTED]. For a longer period of time [REDACTED] was late for class almost every day. Both the school’s house rules and the class rules state that pupils must be punctual for lessons: “We attend lessons regularly and punctually” (House Rules of the Diesterweg School). This is not only an important basic principle with regard to later working life. In particular, it must imperatively be observed in the current Corona situation, as it must be ensured that pupils are not present in the school building without supervision. The tardiness of any pupil is recorded in writing in the class register.

If a pupil is late for the third time, he or she must transcribe the school house rules by hand at home within a given period of time. This consequence is known to the parents as well as to the pupils. If this task is not fulfilled, the pupil is asked to carry out the task at school on the following Friday after the end of the lessons. The pupils and their parents also know this measure. These measures are based on the school’s house rule “Pupils must comply with instructions and orders of all those working in the school” (House Rules of the Diesterweg School) and the school regulations for special schools (Section 77, point 1-3). Since [REDACTED] did not complete the demanded task, she was then supposed to remain at school on the following Friday during the 7th lesson. [REDACTED] however, left the school without permission and without carrying out the task. The work was then to be made up a week later. [REDACTED] again left school after the 6th lesson.

Allegation:

A letter of 26 November 2020 by [REDACTED] to the Ministry for Family Affairs, Women, Youth, Integration and Consumer Protection of Rhineland-Palatinate had remained unanswered until the end of January.

Response:

The Ministry received [REDACTED] letter on 30 November 2020. On 14 January 2021, a reply letter by the Minister was sent to [REDACTED]. Furthermore, on 18 January 2021, [REDACTED] called the Ministry and talked to the responsible department head; she agreed that the letter she had sent to the Minister would be forwarded to the head of the Youth Welfare Office.

II. Question No. 2: *“Please clarify the steps being taken to guarantee that [REDACTED] can resume attendance in a mainstream school in the community in which she lives, as soon as possible, and she receives all necessary individualized support measures and the reasonable accommodations that she is entitled, as provided for in Article 24(2) of the CPRD.”*

1. At the beginning of 2020, [REDACTED] situation was discussed by the responsible head of department of the then Ministry for Family Affairs, Women, Youth, Integration and Consumer Protection (MFFJIV) and the responsible officer of the Ministry of Education (BM), particularly against the background of the decisions of the Higher Administrative Court of Koblenz and the Federal Constitutional Court (decision on interim measures) on the question of the partial withdrawal of parental custody. In this context, it was also noted that, according to her letter, [REDACTED] did not want to attend a special school.
2. Further, in autumn 2020 the Koblenz Youth Welfare Office took steps to consider whether [REDACTED] could attend one of the local Montessori or Waldorf schools. In this context, the Youth Welfare Office provided information on these schools to [REDACTED] mother and expressed that [REDACTED] should have the opportunity to pursue her school career and her goals independently. Unfortunately, the Waldorf School in Kastellaun later informed the Youth Welfare Office that the school’s admissions committee had to decide against admitting [REDACTED] because there were already two pupils with special needs in the respective class. For this reason, there was no further capacity to admit another pupil with special needs. [REDACTED] former school, the Albert-Schweitzer-Realschule plus, is also a special needs school with an integrative support concept. Unfortunately, a return to this school was no longer possible due to [REDACTED] previous misbehaviour.
3. Later, as provided for by the Rhineland-Palatinate School Act, the legal situation was reported to the MFFJIV. It was demonstrated that target-differentiated teaching within the “support focus learning” (“Förderschwerpunkt Lernen”) is in principle also possible at a “Realschule plus”, which is assigned as a special focus school (“Schwerpunktschule”) and offers inclusive teaching. In the following, a moderated

round table was organized to discuss perspectives for [REDACTED] further school education with all those involved. This round table was supposed to take into consideration the wishes and ideas of the [REDACTED] herself and provide a basis for a possible new decision by the guardian. The meeting took place on 10 March 2021. In order to actively work towards a solution, the responsible head of department of the then MFFJIV and the deputy head of the department of the Ministry of Education participated in this moderated discussion. In result, it was agreed that – in accordance with her mother’s wish – [REDACTED] could change to a special focus school (“Realschule plus”) in Kobern-Gondorf (<https://rsplus-untermosel.de/>) as of the school year 2021/2022. Due to the special teaching situation caused by the pandemic (alternation between face-to-face learning and distance learning), it was mutually agreed that [REDACTED] will remain at the special school until the end of the current school year and prepare for the transition to the school in Kobern-Gondorf. For June 2021, another round table of all parties involved was scheduled under the auspices of the school authority in order to prepare the change of school and to fix the measures of support.

III. Question no. 3: “Please provide information on how the best interests, the will and the preference and the right to be heard of [REDACTED] in relation to attending a mainstream secondary school, which she clearly expressed, were taken into consideration by the relevant authorities as well as by the supplementary guardians, in the process leading to the decisions that placed [REDACTED] in a segregated special school, in line with the provisions of the ICESCR, Article 7 and 21 of the CRPD and Article 3 and 12 of the Convention on the Rights of the Child”

1. In his assessment of the situation, [REDACTED] supplementary guardian concluded that her assignment to a special school was a decision that was in [REDACTED] best interests within the meaning of Article 7 (2) of the CRPD and Article 3 (1) of the Convention on the Rights of the Child. This decision was neither taken with levity nor arbitrary. The actual experiences gained by [REDACTED] visit of the Albert-Schweitzer-Realschule plus and the considerable difficulties she had faced there, rather prove that the decision was well-founded.
2. [REDACTED] assignment to the special school was, however, by no means, the end of the matter. Being fully aware of [REDACTED] expressed wish to attend a mainstream secondary school, in accordance with Article 21 of the CRPD and Article 12 of the Convention on the Rights of the Child, the responsible authorities never stopped to inquire whether a solution agreeable to all parties involved could be found. As elaborated above, the matter was repeatedly considered up to the highest level of administration in the state of Rhineland-Palatinate even after her assignment to the special school. Finally, an agreement could be reached. [REDACTED] will be able to attend the special focus school in Kobern-Gondorf (“Realschule plus”) as of the next school year (see above, our response to question 2).
3. It should be noted, that at every stage of the decision-making process about schooling and support of [REDACTED] her welfare and best interests were always the overriding

interest of all state authorities in charge. Her will has been taken into account according to her maturity. Due to the problematic relationship of [REDACTED] to her mother, which was also confirmed by the courts (see above the factual background), the will of [REDACTED] mother has dominated hers. It has been the very task of the competent state authorities, especially in such a difficult situation, to protect and enforce the best interests of the child.