




---

**Committee on the Rights of Persons with Disabilities**
**Decision adopted by the Committee under the Optional Protocol, concerning communication No. 66/2019\*, \*\***

<i>Communication submitted by:</i>	M.S. (represented by his foster mother, H.C.)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Sweden
<i>Date of communication:</i>	20 August 2020 (initial submission)
<i>Date of adoption of decision:</i>	6 September 2021
<i>Substantive issue:</i>	Deportation of a person with complex post-traumatic stress disorder and generalized anxiety disorder

1. The author of the communication is M.S., a national of Afghanistan born in 1999. He claims to be the victim of violations by the State party of articles 10, 15, 16 and 25 of the Convention. The Optional Protocol entered into force for the State party on 14 January 2019. The author is represented by his foster mother.

2. The author and his family left Afghanistan for the Islamic Republic of Iran, fleeing violence, when he was approximately 5 months old. He lived in the Islamic Republic of Iran for 13 years without being granted a residence permit. When he was 13, his mother died and he remained with his paternal uncle, his only relative, who physically and mentally abused him. He was also subjected to sexual abuse and sexual violence. During his two-year trip to reach Sweden, he was placed in a refugee camp in Greece, where he continued to fall victim to violence and sexual abuse. He has been diagnosed with complex post-traumatic stress disorder, depression, generalized anxiety disorder and “other specified reactions to severe stress”, resulting in cognitive impairment that, without support, can limit his daily life. He has attempted suicide on four occasions.

3. On 7 April 2015, the author applied for asylum in the State party. On 2 July 2016, the Swedish Migration Agency rejected the application, concluding that the author had not established that he would face an individual threat if returned to Afghanistan, and that his medical condition could not constitute a basis for granting him a residence permit on medical grounds as he was not found to be suffering from a life-threatening disease. On 30 March 2017, the Migration Court rejected the author’s appeal. On 16 May 2017, the Migration Court of Appeal decided not to grant him leave to appeal. On 26 September 2017, the Swedish Migration Agency rejected the author’s second application for a residence permit and his simultaneous application for “enforcement barriers”. On 18 December 2017, the Migration

---

\* Adopted by the Committee at its twenty-fifth session (16 August–14 September 2021).

\*\* The following members of the Committee participated in the examination of the communication: Rosa Idalia Aldana Salguero, Danlami Umaru Basharu, Gerel Dondovdorj, Gertrude Oforiwa Fefoame, Vivian Fernández De Torrijos, Odelia Fitoussi, Mara Cristina Gabrielli, Amalia Eva Gamio Ríos, Samuel Njuguna Kabue, Rosemary Kayess, Kim Mi Yeon, Sir Robert Martin, Floyd Morris, Jonas Ruskus, Markus Schefer, Saowalak Thongkuay and Risnawati Utami.



Court upheld that decision. On 10 January 2018, the Swedish Migration Agency rejected the author's second application for enforcement barriers. On 9 February 2019, the Migration Court of Appeal upheld that decision. On 20 April 2018 and 14 December 2018 respectively, the Migration Authority rejected the author's third and fourth applications for enforcement barriers. The author had submitted in the fourth application that he was an atheist, that he had become westernized and that his paternal uncle had threatened him. On 15 April 2019, the Migration Court rejected the author's appeal, and on 10 June 2019, the Migration Court of Appeal decided not to grant him leave to appeal.

4. The author submitted a communication to the Committee on 20 August 2019, in which he claimed that his deportation to Afghanistan would constitute a violation of articles 10, 15, 16 and 25 of the Convention. He was represented by his foster mother. On 23 August 2019, the Committee submitted a request for interim measures to the State party, requesting it not to remove the author to Afghanistan while his case was pending before the Committee. On 3 July 2020, the State party sent its observations on admissibility and the merits, submitting that the communication should be held inadmissible: (a) *ratione materiae* and *ratione loci* concerning the claims under articles 16 and 25 of the Convention; (b) *ratione materiae* concerning the claims under articles 10 and 15 of the Convention; and (c) for being insufficiently substantiated. On the merits, the State party submitted that the communication revealed no violation of the Convention. On 9 November 2020, the author submitted comments on the State party's observations and held that the communication should be declared admissible in all its parts and that it revealed a clear violation of the Convention. On 5 May 2021, the State party requested that the Committee discontinue its consideration of the communication, as the decision to expel the author was due to become statute-barred on 16 May 2021. This request was accepted by the author on 12 May 2021.

5. At a meeting on 6 September 2021, the Committee, in view of the above elements, and taking account of the fact that the expulsion decision referred to in the author's complaint had become statute-barred on 16 May 2021 and that the author no longer faced a risk of being returned to Afghanistan, decided to discontinue the consideration of communication No. 66/2019.

---