



Convention on the Rights of Persons with Disabilities

Distr.: General
11 October 2021

Original: English

Committee on the Rights of Persons with Disabilities

Decision adopted by the Committee under the Optional Protocol, concerning communication No. 74/2019*, **

<i>Communication submitted by:</i>	A.S. (represented by counsel, Joakim Lundqvist)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Sweden
<i>Date of communication:</i>	12 December 2019 (initial submission)
<i>Date of adoption of decision:</i>	6 September 2021
<i>Substantive issue:</i>	Deportation of a person with disabilities

1. The author of the communication is A.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 22 of the Convention. The Optional Protocol entered into force for the State party on 14 January 2009. The author is represented by counsel.

2. The author left Afghanistan for the Islamic Republic of Iran, with his mother and siblings, when he was eight years old because he was at risk of persecution by the Taliban, as his relatives had worked for the coalition, including the forces of the United States of America. A few years later, he left the Islamic Republic of Iran for the State party, because of the deteriorating conditions for Afghan refugees. The author meets the diagnostic criteria for post-traumatic stress disorder. He also shows a pattern of functioning consistent with one or a combination of the following conditions: autism, intellectual disability, brain tumour, head injury and epilepsy. The author submits that he would therefore be particularly vulnerable to stigmatization and abuse in case of return to Afghanistan.

3. On 6 August 2015, the author applied for asylum in the State party. On 21 September 2016, the Swedish Migration Agency rejected the application, stating that the author had not been able to prove that he would be at risk of ill-treatment by the Taliban if returned to Afghanistan. On 9 March 2017, the Migration Court reached the same decision and found that the medical condition described was not such as to justify the granting of a residence permit on humanitarian grounds. On 19 May 2017, when the Migration Court of Appeal decided not to grant the author leave to appeal, the expulsion order became enforceable. The author submitted a subsequent application to the Swedish Migration Agency on 5 June 2017, which was rejected on 7 May 2018. On 28 June 2018, the Migration Court rejected the author's appeal and, on 9 August 2018, the Migration Court of Appeal decided not to grant

* 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.



him leave to appeal. On 23 August 2019, the author was placed in migration detention by the police with a view to deportation. On 25 October 2019, he submitted a further application, highlighting that he had been admitted to psychiatric care after attempting suicide while in detention. On 28 October 2019, the Swedish Migration Agency rejected the application. On 12 November 2019, the Migration Court dismissed the author's appeal, and on 10 December 2019, the Migration Court of Appeal decided not to grant him leave to appeal.

4. The author submitted a communication to the Committee on 12 December 2019, in which he claimed that his deportation to Afghanistan would constitute a violation of articles 10, 15, 16 and 22 of the Convention. On 16 December 2019, the Committee submitted a request for interim measures to the State party, requesting it: (a) not to remove the author to Afghanistan while his case was pending before the Committee; and (b) to enable him to undergo further medical examinations with a view to ascertaining whether his condition would lead to irreparable harm upon return to Afghanistan. On 16 September 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 22 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 18 January 2021, the author submitted comments on the State party's observations and reiterated that the communication revealed a violation of articles 10, 15, 16 and 22 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 19 May 2021. This request was accepted by the author on 17 June 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 19 May 2021 and that the author no longer faced a risk of being returned to Afghanistan, decided to discontinue the consideration of communication No. 74/2019.
