



Convention on the Rights of the Child

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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. 141/2021* ** ***

<i>Communication submitted by:</i>	M.A.M. (represented by Jean-Louis Berardi)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Switzerland
<i>Date of communication:</i>	18 February 2021 (initial submission)
<i>Subject matter:</i>	Length of the asylum appeal process for an unaccompanied child; expulsion to Morocco
<i>Procedural issues:</i>	Exhaustion of domestic remedies; non-substantiation of claims
<i>Article of the Convention:</i>	3
<i>Articles of the Optional Protocol:</i>	6 and 7 (e) and (f)

1. The author of the communication is M.A.M., a national of Morocco born on 2 February 2005. He alleges that the delay by the State party's authorities in processing an appeal related to his asylum application constitutes a violation of his rights under article 3 of the Convention. The Optional Protocol entered into force for the State party on 24 July 2017.

2. On 4 July 2017, the author applied for asylum in Switzerland as an unaccompanied child. He claimed that his father had been unemployed since 2005, that his parents had divorced and that he and his mother had found themselves homeless after being evicted for non-payment of rent. He claimed that his aunts and uncles had never helped him. On 14 August 2017, the State Secretariat for Migration rejected the author's application for asylum, finding that he had not substantiated his application, that his parents lived in Morocco and that he was in reasonably good health. On 22 August 2017, the author filed an appeal against that decision with the Federal Administrative Court. He argued that the State party's authorities had an obligation to investigate whether the author could be cared for in Morocco by a guardian or an institution that could ensure his protection. On 31 August 2017, the Federal Administrative Court overturned the decision of the State Secretariat for Migration

* Adopted by the Committee at its ninety-first session (29 August–23 September 2022).

** The following members of the Committee participated in the examination of the communication: Suzanne Aho, Aïssatou Alassane Moulaye, Hynd Ayoubi Idrissi, Rinchen Chopel, Bragi Gudbrandsson, Sopia Kiladze, Gehad Madi, Faith Marshall-Harris, Benyam Dawit Mezmur, Clarence Nelson, Otani Mikiko, Luis Ernesto Pedernera Reyna, José Ángel Rodríguez Reyes, Ann Skelton, Velina Todorova, Benoit Van Keirsbilck and Ratou Zara.

*** Pursuant to rule 8 (1) (a) of the Committee's rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, Philip Jaffé did not participate in the examination of the communication.



and requested it to investigate whether care would be provided for the author if he returned to Morocco. On 16 September 2019, the State Secretariat for Migration, after examining the matter, concluded that the author's social and family circle in Morocco would be willing and able to take care of him. On 23 September 2019, the author filed an appeal against that decision before the Federal Administrative Court. On 12 December 2019, the State Secretariat for Migration submitted an answer to the appeal. On 16 January 2020, the author submitted comments. On 28 October 2020, the author requested the Federal Administrative Court to expedite his case. On 3 December 2020, the judge of the Court stated that it was not yet known when the Court would review the author's case, but that every effort would be made to do so as soon as possible.

3. On 17 June 2021, the author reported that on 26 March 2021, the Federal Administrative Court had rejected his appeal of 23 September 2019 and had confirmed that he was to be returned to Morocco.

4. On 22 June 2021, pursuant to article 6 of the Optional Protocol, the working group on communications, acting on behalf of the Committee, decided to reject the author's request for interim measures, namely the suspension of his expulsion while his case was under consideration by the Committee.

5. On 18 November 2021, the State party submitted observations on the admissibility and merits of the communication.

6. On 8 February 2022, the author submitted comments on the State party's observations on the admissibility and merits of the communication and again requested interim measures.

7. On 3 April 2022, the State party requested the Committee to discontinue the consideration of the communication. The State party informed the Committee that the author had been granted temporary admission and was therefore no longer at risk of being returned to Morocco.

8. At a meeting on 12 September 2022, the Committee, having noted that the author was no longer at risk of being expelled to Morocco, concluded that the matter had become moot and decided to discontinue the consideration of communication No. 141/2021 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.
