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Convention on the Rights of the Child

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Committee on the Rights of the Child

Views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communication No. 95/2019*, **

Communication submitted by:	A.M. (represented by counsel, Boris Wijkström and Gabriella Tau)
Alleged victim:	M.K.A.H.
State party:	Switzerland
Date of communication:	27 August 2019 (initial submission)
Date of adoption of Views:	22 September 2021
Subject matter:	Deportation of a child and his mother to Bulgaria
Procedural issues:	Exhaustion of domestic remedies; substantiation of claims
Substantive issues:	Discrimination; best interests of the child; child development; right of the child to be heard in any judicial or administrative proceedings affecting the child; appropriate protection and humanitarian assistance for refugee children; right of the child to the enjoyment of the highest attainable standard of health; inhuman or degrading treatment
Articles of the Convention:	2 (2), 3, 6, 7, 12, 16, 22, 24, 27, 28, 29, 37 and 39
Article of the Optional Protocol:	7 (e) and (f)

1.1 The author of the communication is A.M., a national of the Syrian Arab Republic born on 13 January 1981. She claims that her son, M.K.A.H., who is stateless and was born on 1 June 2007, would be the victim of a violation by Switzerland of his rights under articles 2 (2), 6, 7, 16, 22, 24, 27, 28, 29, 37 and 39 of the Convention if he were returned to Bulgaria pursuant to the Agreement of 21 November 2008 between the Swiss Federal Council and the Government of the Republic of Bulgaria on the readmission of persons staying without authorization. She also claims that during the asylum procedure M.K.A.H.'s rights under

* Adopted by the Committee at its eightieth session (6–24 September 2021).

** The following members of the Committee participated in the consideration of the communication: Suzanne Aho Assouma, Hynd Ayoubi Idrissi, Rinchen Chophel, Bragi Gudbrandsson, Sopio Kiladze, Gehad Madi, Faith Marshall-Harris, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, Zara Ratou, Aïssatou Alassane Sidikou, Ann Marie Skelton and Benoit Van Keirsbilck.

articles 3 and 12 of the Convention were violated. She is represented by counsel. The Optional Protocol entered into force for the State party on 24 July 2017.

1.2 On 28 September 2019, pursuant to article 6 of the Optional Protocol, the working group on communications, acting on behalf of the Committee, requested the State party to suspend the removal of the author and her son to Bulgaria while the Committee was considering their case.

Facts as submitted by the author[1]

2.1 M.K.A.H. was born in Damascus, in the Yarmouk refugee camp, a camp run by the Palestinian authorities. He and his family later moved to Yalda, in the Syrian Arab Republic, where he endured the effects of the brutal civil war. For an extended period of time, M.K.A.H. lived under the siege laid by Da'esh and experienced first-hand the fighting between insurgent groups and the Syrian army for control of their village. For months, he could not leave the house during the day because of the security situation. Several of his family members, including his grandfather, were killed by the explosion of a rocket.

2.2 In 2014 or 2015, M.K.A.H.'s father, a Palestinian from Jordan, was arrested at his workplace by Syrian security forces. He has been missing ever since. After his disappearance, the author decided to go into hiding with M.K.A.H.

2.3 In July 2017, the author and M.K.A.H. left the Syrian Arab Republic for their safety. They fled through underground tunnels from Yalda to Damascus. With the help of traffickers, they travelled by car to Idlib, where, after several unsuccessful attempts, they crossed the border into Turkey. They then walked for two days through forests to Bulgaria, where traffickers locked them in an apartment for around two weeks. When, on their way to Serbia, they then tried to cross into Romania, they were intercepted by Romanian border guards, held overnight and handed over to the Bulgarian police.

2.4 In Bulgaria, the author and M.K.A.H. were kept for three days without food or water in a prison-like building near the border. The group of people they were with was placed in two minuscule, windowless rooms and subjected to a body search during which everyone was forced to undress, a particularly traumatic experience for the author. The members of the group were questioned by turns by the Bulgarian police, who subjected them – the young men in particular – to verbal and physical abuse, and then transferred to another prison, where they spent 10 days.

2.5 In this prison, there were two large common rooms, each housing 50 to 70 migrants. Men, women and children were all held together. They received two meals a day and had one blanket per person. They had no mattresses, so they slept on the floor. They were all locked up at 10.30 p.m. and not allowed to go to the toilets until the next morning.

2.6 After about days, the Bulgarian authorities gave the author a choice between "signing a form" or staying in prison. Despite the presence of a lawyer and an interpreter, no one explained to her what the document she was asked to sign meant. She agreed only because she was afraid she would otherwise have to stay in that prison. On 29 September 2017, the author and M.K.A.H. were registered as asylum seekers in Bulgaria. On 24 April 2018, Bulgaria granted them subsidiary protection.

2.7 The author and M.K.A.H. were then taken to a camp where they spent three months in conditions of extreme overcrowding, insecurity and hunger. During that time, M.K.A.H. did not attend school. The food provided in the camp was often so bad that the author had to use her meagre resources to find supplies elsewhere.

2.8 After a second unsuccessful attempt to cross the border into Romania, the author and M.K.A.H. were again intercepted and sent back to the camp, where they remained for about five months.

2.9 The author and M.K.A.H. then returned to Turkey, from which they travelled to Switzerland hidden in the back of a vehicle. That trip took from five to seven days. On

[1] Information on the asylum procedure in Switzerland has been supplemented with data provided by the State party.

arriving in Switzerland, they immediately sought out the author's brother and his family, with whom they stayed for two days before reporting to the Swiss authorities.

2.10 On 6 August 2018, the author and M.K.A.H. applied for asylum. They were not represented by counsel because they could not afford such representation. The author drew attention to the fact that her brother was the only member of her family in Europe, that she had lost many family members during the conflict, that she was "psychologically exhausted" and that she needed the security offered by the presence of her brother and his family. She asked to be able to live in the canton where her brother lived. M.K.A.H. was not given the opportunity to be heard during the interviews.

2.11 On 4 September 2018, the State Secretariat for Migration requested the Bulgarian authorities to readmit the author and M.K.A.H. under the Agreement of 21 November 2008 between the Swiss Federal Council and the Government of the Republic of Bulgaria on the readmission of persons staying without authorization. On 7 September 2018, the Bulgarian authorities granted this request.

2.12 On 25 September 2018, the State Secretariat decided to reject the application for asylum for the author and M.K.A.H. and ordered their removal to Bulgaria, where they have been granted subsidiary protection. According to the State Secretariat, even if the allegations concerning their treatment in Bulgaria were true, the author and M.K.A.H. could benefit from social assistance and assert his rights before the courts.

2.13 On 3 October 2018, the author, represented by counsel this time, filed an appeal with the Federal Administrative Court. She pointed out that no steps had been taken to help her integrate during her stay in Bulgaria and that M.K.A.H. had not been in school. She referred to the risk of inhuman and degrading treatment in camps for asylum seekers in Bulgaria. As a single mother, she would have difficulty finding gainful employment and would certainly be homeless. That would amount to inhuman and degrading treatment for her son. She needed access to rehabilitation. Rehabilitation would have been possible in Switzerland and could have been successful, but it would be impossible in Bulgaria. She explained that her brother and his family were her only relatives in Europe and that she and her son depended on them for their psychological and emotional health and social integration.

2.14 On 30 April 2019, the Federal Administrative Court rejected the author's appeal and upheld the decision of the State Secretariat for Migration. The Court added that Bulgaria had medical facilities and offered treatment that would make it possible to deal with the mental health problems the author claimed she had.

2.15 On 24 June 2019, the author and M.K.A.H. filed a request for reconsideration with the State Secretariat that was denied on 25 June 2019. On 11 July 2019, they filed an appeal with the Federal Administrative Court. The Court found that there was no reasonable chance that the appeal was likely to succeed and ordered the payment of advance court costs in the amount of US$ 1,626.73. The author was unable to pay, and on 14 August 2019 the Court dismissed the appeal for non-payment without considering it on the merits. The author claims to have exhausted all domestic remedies.

Complaint

3.1 The author claims that M.K.A.H.'s rights under articles 2 (2), 6, 7, 16, 22, 24, 27, 28, 29, 37 and 39 of the Convention would be violated by the State party in the event of his removal to Bulgaria, where he faces a real risk of inhuman and degrading treatment.

3.2 The author claims, moreover, that M.K.A.H.'s rights under article 2 (2) of the Convention would be violated in the event of removal because he would be denied recognition of his statelessness. Bulgaria does not have legislation that would make it possible to recognize that M.K.A.H. was stateless. The author notes that the bill before the parliament would not help her son, as recognition of statelessness requires the person to have been born in or entered Bulgaria legally.

3.3 Furthermore, the author submits that the Swiss authorities did not explain how the removal order was in her child's best interests and thus failed to comply with the procedural and substantive obligation deriving from article 3 (1) of the Convention. In its decision, the Federal Administrative Court did not respond to the author's allegations that M.K.A.H. had

been subjected to xenophobic verbal and physical abuse in Bulgaria, had been detained in inhuman conditions and had lived in inhuman conditions in the camps, where he would be likely to stay if he were returned to that country. The Court also failed to consider that M.K.A.H. had not attended school in Bulgaria, despite having lived there for nearly a year, or that they had not received any integration assistance and had no family in Bulgaria. The fact that they would face the risk of homelessness and life on the streets was likewise not addressed by the Court.

3.4 The author stresses that M.K.A.H.'s journey to Switzerland took more than a year and was very traumatic for him. He would be severely traumatized again if he were returned to Bulgaria, where he had no family support and was likely to be homeless. He was also likely to face a lifetime of social exclusion, discrimination and xenophobic violence. Removing him is therefore clearly not in his best interests as a child. The author refers to a 23 July 2019 medical report according to which M.K.A.H. is in a state of anxiety and depression related to the traumatic events of his migration to Switzerland. His doctors are opposed to his removal to Bulgaria.

3.5 The author refers to public and reliable information that shows that Bulgaria does not offer any assistance for the integration of persons under international protection. She cites the January 2019 report on Bulgaria of the European Council on Refugees and Exiles, which draws on the Asylum Information Database and describes a "zero integration" situation, meaning that Bulgaria still does not have an operational assistance programme for persons under international protection.[2] Access to housing, schooling and medical care for beneficiaries of international protection is either severely lacking or non-existent. Persons who have been granted refugee status or subsidiary protection are entitled to accommodation for no more than six months from the date on which they were granted protection. After the six-month period, they are expelled from reception centres and left to their fate. In addition, bureaucratic obstacles make gaining access to housing outside asylum centres virtually impossible. The author also notes that international bodies and national courts have begun to intervene to prevent the deportation to Bulgaria of vulnerable beneficiaries of international protection because of the risk of inhuman and degrading treatment.[3]

3.6 The author also asserts that M.K.A.H. was not given an opportunity to be heard during the asylum interview, in breach of article 12 of the Convention.

3.7 The author adds that M.K.A.H., in view of his extreme vulnerability as a traumatized child, has become dependent on his uncle and cousins, with whom he interacts on a daily basis. They are an indispensable emotional and cultural source of support for him. Deporting M.K.A.H. to Bulgaria, which would constitute an act of arbitrary and unlawful interference with his privacy contrary to article 16 of the Convention, would weaken these ties.

3.8 As for the alleged violation of article 22 of the Convention, the author submits that the rights referred to in her communication must be interpreted in the light of the positive obligations of Switzerland, given M.K.A.H.'s asylum status, to provide appropriate protection for the enjoyment of the rights set forth in the Convention. The extreme vulnerability of asylum-seeking children imposes particular duties of care and due diligence on States.

3.9 The author argues that the Swiss deportation order would also violate article 37 of the Convention, in which ill-treatment is prohibited, as M.K.A.H. would be traumatized again by the deportation and the conditions in Bulgaria for persons granted subsidiary protection are inhuman and degrading.

3.10 The author also claims that M.K.A.H.'s rights under article 39 of the Convention would be violated if he were deported. As a traumatized victim of the armed conflict, of his

[2] European Council on Refugees and Exiles, Country Report: Bulgaria, January 2019. See also Council of Europe, Report of the fact-finding mission by Ambassador Tomáš Boček, document SG/Inf(2018)18, 19 April 2018, p. 19, Margarite Zoeteweij and Adriana Romer, Bulgarie : situation actuelle des personnes requérantes d'asile et des personnes au bénéfice d'un statut de protection, Swiss Refugee Council, 30 August 2019, pp. 22–23, and Swiss Refugee Council, Renoncer aux transferts vers la Bulgarie, 12 September 2019.

[3] See, for example, *R.A.A. and Z.M. v. Denmark* (CCPR/C/118/D/2608/2015).

journey as an asylum seeker and of the ill-treatment he endured in Bulgaria, he has the right to physical and psychological recovery and to social reintegration. In Bulgaria, he is likely not to be given the medical treatment he needs, as he would not be able to pay for private insurance. The author explains that once a person has been granted international protection, he or she no longer receives free medical care and has to take out health insurance of his or her own.[4] Being deported to Bulgaria would also cause M.K.A.H. more serious trauma, which would in itself constitute a violation of his right to recovery under article 39 of the Convention.

Third-party intervention

4.1 On 31 March 2020, the AIRE Centre (Advice on Individual Rights in Europe), the European Council on Refugees and Exiles and the Dutch Council for Refugees submitted a third-party brief.

4.2 The intervening organizations argued that, if the best interests of the child are to be made a primary consideration and if children are to benefit from appropriate protection within the meaning of article 22 of the Convention, they must, in migration contexts, have access to procedures and measures that respect their fundamental rights, including the right to be heard.[5]

4.3 The intervening organizations also argue that serious violations of economic and social rights may fall under the prohibition of non-refoulement when they involve degrading living conditions, destitution, extreme hardship or lack of medical treatment. It is incumbent on States parties to undertake an individualized assessment of the risk a child will face in the country to which he or she is returned.[6]

4.4 In their submission, the third parties point out that, in determining whether a situation of extreme material poverty could raise an issue under article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), the European Court of Human Rights has stated that it has not excluded "the possibility that the responsibility of the State [might] be engaged [under article 3] in respect of treatment where an applicant, who was wholly dependent on State support, found herself faced with official indifference in a situation of serious deprivation or want incompatible with human dignity".[7]

4.5 The third-party interveners also point out that, under the law of the European Union, the Court of Justice of the European Union ruled that an asylum seeker could not be transferred to the member State which previously granted him international protection if his or her living conditions put him or her in a situation of extreme material poverty that amounted to a violation of the prohibition of inhuman or degrading treatment.[8]

4.6 They note that the Office of the United Nations High Commissioner for Refugees has observed in relation to Bulgaria that the lack of adequate reception conditions and integration prospects compelled many applicants to leave the country before their claims had been processed or shortly after they had been granted asylum, that there were no targeted support

[4] Margarite Zoeteweij and Adriana Romer, Bulgarie : situation actuelle des personnes requérantes d'asile et des personnes au bénéfice d'un statut de protection, Swiss Refugee Council, 30 August 2019, pp. 23–24.

[5] See, for example, the following cases before the European Court of Human Rights: *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, application No. 13178/03, judgment of 12 October 2006 para. 55, *Popov v. France*, applications No. 39472/07 and No. 39474/07, judgment of 19 January 2012, para. 91, and *Tarakhel v. Switzerland*, application No. 29217/12, judgment of 4 November 2014, para. 99.

[6] *Hashi and S.A.A. v. Denmark* (CCPR/C/120/D/2470/2014), para. 9.10, and *Araya v. Denmark* (CCPR/C/123/D/2575/2015), para. 9.7.

[7] European Court of Human Rights, *Tarakhel v. Switzerland*, application No. 29217/12, judgment of 4 November 2014, para. 98 (citing *Budina v. Russia*, application No. 45603/05, decision of 18 June 2009).

[8] Court of Justice of the European Union, *Ibrahim et al. v. Bundesrepublik Deutschland* and *Bundesrepublik Deutschland v. Magamadov*, joined cases C-297/17, C-318/17, C-319/17 and C-438/17, judgment of 19 March 2019, para. 90.

measures for integration in Bulgaria or measures for persons with specific needs and that refugees faced a number of legal and practical barriers in accessing specific rights, notably in housing and social assistance. Once granted status, they may be allowed to remain in the centres overseen by the State Agency for Refugees, on a discretionary basis, for a period of up to six months but are not entitled to food. The risk of homelessness was real.[9]

4.7 The organizations submitting the third-party brief also point out that under Bulgarian law the interpretation of termination of protection is broader than in the European qualification directive, as under that interpretation the non-renewal of Bulgarian identity documents for a period exceeding three years constitutes de facto additional grounds for the termination of protection, in violation of national and European legislation.[10]

4.8 The interveners note that although Bulgaria is a party to the relevant international and regional instruments, it has maintained reservations to the 1954 Convention relating to the Status of Stateless Persons and the European Convention on Nationality of 1997 in respect of various rights that have a direct impact on the ability of stateless persons in Bulgaria to exercise their rights. They argue that States parties must, pursuant to article 7 of the Convention on the Rights of the Child, implement children's right to a nationality in a manner consistent with the principle of the best interests of the child. This obligation requires States to take proactive measures to ensure that the rights of stateless children are protected, meaning that return decisions must involve a rigorous assessment of all the facts and circumstances of a case to ensure that children can exercise this right, that they are not made stateless and that their other fundamental rights under the Convention are not impaired as a consequence.

State party's observations on admissibility and the merits and the third-party intervention

5.1 In its observations of 23 June 2020, the State party argues that part of the communication is inadmissible, in accordance with article 7 (e) of the Optional Protocol, as the author and her son have not exhausted domestic remedies in relation to the claim of violations of articles 7, 12, 24, 28, 29 and 39 of the Convention. The State party points out that the author and M.K.A.H. made no mention of a violation of Convention rights either in their initial applications for asylum or in their appeals.

5.2 The State party notes in particular that the author and her son have not exhausted the domestic remedies available to them in relation to the arguments concerning M.K.A.H.'s health. It emphasizes that the author never claimed in the course of the proceedings that M.K.A.H. had mental health problems. In particular, the psychological assessment completed on 23 July 2019 by the Department of Child and Adolescent Psychiatry and Psychotherapy of the Fondation de Nant was never presented to the authorities responsible for the proceedings in Switzerland.

5.3 The State party also stresses that the author did not argue either explicitly or implicitly during the asylum proceedings that M.K.A.H., in violation of article 12 of the Convention, was never heard. This part of the communication must be found inadmissible for failure to exhaust domestic remedies.

5.4 The State party admits, however, that the claims of violations of articles 2 (2), 3 (1), 6, 16, 19, 22, 27 and 37 of the Convention were, in substance, raised during the appeal and review of the rejection of the application for asylum.

5.5 The State party also argues that the communication is inadmissible under article 7 (f) of the Optional Protocol, since it is manifestly ill-founded or insufficiently substantiated.

[9] Office of the United Nations High Commissioner for Refugees, Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' compilation report – Universal Periodic Review: 3rd cycle, 36th session. Submission for the universal periodic review of Bulgaria, October 2019, pp. 1 and 3. Available at www.ohchr.org/EN/HRBodies/UPR/Pages/UPRBGUNContributionsS36.aspx.

[10] European Parliament and Council of the European Union, Directive 2011/95/EU of 13 December 2011, *Official Journal of the European Union*, L 337, 20 December 2011, p. 9, arts. 11 and 14.

5.6 The State party submits that articles 2 (2), 3 (1), 6 (2), 16, 22, 24, 27, 28, 29 and 39 of the Convention are not directly applicable. It is of the view that article 3 (1) of the Convention is a guiding principle and that the other articles are generally worded and/or structural in nature. Consequently, these articles do not provide a basis for individual rights that it is possible to claim a violation of and are not considered directly applicable by Switzerland.

5.7 The State party points out that most of the complaints are formulated in very general terms and that the author and M.K.A.H. are in fact seeking to obtain a new assessment of facts already examined in the domestic proceedings by the State Secretariat for Migration and the Federal Administrative Court. The alleged violations of articles of the Convention, with the exception of those concerning articles 3 (1), 12, 16 and 22, relate to the situation in Bulgaria rather than in Switzerland. In this respect, the author does not demonstrate that there are substantial grounds for believing that, in the event of M.K.A.H.'s deportation to Bulgaria, he would be exposed to a foreseeable, present, personal and real risk of irreparable harm, such as those envisaged in, for example, articles 6 and 37 of the Convention.

5.8 In any event, the State party is of the view that there has not been a violation of the Convention in the present case. It notes that the author and M.K.A.H. are beneficiaries of international protection in Bulgaria. It stresses that Bulgaria has ratified the Convention for the Protection of Human Rights and Fundamental Freedoms and is obliged to act in accordance with the provisions of other legal instruments relating to human rights and refugees. It must, for example, ensure that the persons to whom it grants international protection have access to health care, housing and employment on the same terms as its own nationals.

5.9 The State party also stresses that the return of the author and M.K.A.H. to Bulgaria is provided for under the Agreement of 21 November 2008 between the Swiss Federal Council and the Government of the Republic of Bulgaria on the readmission of persons staying without authorization.

5.10 The State party notes in particular that article 3 of the Convention does not confer a subjective right to obtain asylum or a right of residence in a specific State or region. The Federal Administrative Court considered the best interests of the author's son when it ruled on his removal to Bulgaria. In addition to taking due account of the child's age (he was 11 years old at the time), it took into account his ties to his cousins in Switzerland and the length of his stay in the country, which was only seven months. Furthermore, the Court noted that it had not been established that M.K.A.H. and his mother needed the continuous care and attention that only the child's uncle and cousins were able to provide.

5.11 The State party points out that M.K.A.H. is being removed from Switzerland with his mother – that is, the person best able to help him make a new home for himself in Bulgaria. The Court also found that it did not appear from reliable and converging sources that Bulgaria systematically violates its obligations under Directive 2011/95/EU of 13 December 2011 on the conditions for non-discriminatory access of beneficiaries of subsidiary protection to employment, social assistance, health care, education and housing. As for access to health care, the State party points out that the author never referred to M.K.A.H.'s medical problems before the Court.

5.12 With regard to access to education in particular, the author did not demonstrate before the Court that M.K.A.H. would be deprived of schooling. In this regard, the Court noted that, despite the absence of preparatory classes to facilitate the integration of children benefiting from subsidiary protection into the Bulgarian national education system, access to education was nevertheless guaranteed to them by law. It also noted that there were local organizations that offered Bulgarian language courses for children.

5.13 The State party, like the Federal Administrative Court, notes that if the author and M.K.A.H. were forced by circumstances to lead a life of great hardship over the long term, or if they believed that Bulgaria was failing to honour its obligations to assist them or violating their fundamental rights in any other way, they would have to turn directly to the Bulgarian authorities, using appropriate legal channels, to obtain redress.

5.14 With regard to the alleged violations of articles 6, 24, 27, 28 and 29 of the Convention, the State party takes note of the various reports to which the author refers and does not deny

that refugees face difficulties in Bulgaria. According to the State party, it should be kept in mind that in 2016, 40.4 per cent of the population of Bulgaria was at risk of poverty or social exclusion. It is of the view that the author has not shown that she and M.K.A.H. would not be treated on a basis of equality with other foreign nationals legally resident in Bulgaria or even with the more impoverished segment of the population of Bulgarian nationals. It also submits that those reports on the situation in Bulgaria are of a general nature and do not specifically relate to the personal situation of the author and M.K.A.H.

5.15 The State party acknowledges that the Bulgarian health system is not yet functioning optimally. It explains that, although the Bulgarian authorities were obliged to pay the health insurance premiums of the beneficiaries of international protection, those persons do in fact face difficulties, as does, however, the Bulgarian population as a whole. The State party is nonetheless of the view that the medical complaints belatedly made by the author in relation to M.K.A.H.'s health are not obviously so particular that they could not be addressed in Bulgaria. Moreover, there is no evidence to suggest that the author would not have access to essential care.

5.16 The State party also indicates that beneficiaries of subsidiary protection are entitled to social assistance. The State party notes that, in addition to State entities, there are charitable organizations in Bulgaria that third-country nationals can turn to.

5.17 The State party also notes that according to article 26 of Directive 2011/95/EU, member States must authorize beneficiaries of refugee status or subsidiary protection to engage in employed or self-employed activities.

5.18 In addition, the State party points out that the author and M.K.A.H., having been granted subsidiary protection in Bulgaria, no longer need fear possible arbitrary detention for being in the country illegally.

5.19 The State party is also of the view that the author has failed to demonstrate that it would be a violation of articles 2 and 7 of the Convention to deport her and M.K.A.H. to Bulgaria. Moreover, to the best of its knowledge, there is no evidence that the author, while in Bulgaria, initiated a procedure for the recognition of M.K.A.H.'s statelessness. Accordingly, the author cannot, as matters stand, make a claim of discrimination on account of her son's statelessness.

5.20 The State party points out that, although article 5 of Asylum Ordinance No. 1 of 11 August 1999, concerning procedural matters, provides that a person capable of forming his or her own views has the right to have his or her own grounds for asylum examined, article 12 (1) of the Convention does not, according to the case law of the Federal Administrative Court, confer on the child the unconditional right to be heard orally and in person, particularly when the child is given the opportunity to express him- or herself through a representative. Only if he or she is capable of forming his or her own views and has the necessary maturity will a child be given the opportunity to express him- or herself at a hearing. A young person close to adulthood – something that, at the time of the asylum application, M.K.A.H. was not – can presumably form his or her own views, and it is for the person who intends to claim that ability to prove it. Throughout the asylum procedure, M.K.A.H. was able to legitimately exercise his right to be heard through his mother.

5.21 With regard to the alleged violation of article 16 of the Convention, the State party notes that M.K.A.H. would be deported to Bulgaria together with his mother; consequently, it is not true that he will not have a family in Bulgaria. The State party reiterates that the Federal Administrative Court was of the view that the physical proximity of M.K.A.H.'s uncle and cousins was in no way essential to the vital needs of the child or his mother, since their relationship was not one of dependence, as defined by the European Court of Human Rights.

5.22 The State party is also of the opinion that the author has failed to demonstrate how it was in breach of articles 19, 22, 37 and 39 of the Convention. With regard to the alleged violation of article 22 of the Convention, it notes that the author and M.K.A.H. have been granted subsidiary protection in Bulgaria and have a permit to reside in the country. In connection with the alleged violation of article 37 of the Convention, the State party submits that there is no evidence that the author and M.K.A.H. would face the risk of inhuman or

degrading treatment in Bulgaria. As for the alleged violation of article 39, the State party is of the opinion that the medical issues mentioned by the author are not so specific that they could not be addressed in Bulgaria.

5.23 The State party believes that the general remarks made in the third-party intervention are not such as to call into question the assessment of the case by the national authorities. It is of the view that the removal of the author and M.K.A.H. is compatible with the principle of non-refoulement. It also notes that the issues relating to statelessness that were raised in the third-party brief were never raised explicitly or in substance by the author or her son during the asylum procedure in Switzerland. It therefore considers that, pursuant to article 7 (e) of the Optional Protocol, this claim is not admissible.

Author's comments on the third-party intervention

6.1 In her comments on the third-party intervention she made on 16 July 2020, the author maintains that the State party has not sufficiently taken into account the best interests of the child in its decisions. She also believes that the right of the child to be heard is closely tied to the obligation to determine the best interests of the child, as the child's views must inform this determination. She feels that M.K.A.H. was of an age at which he could easily have been heard in appropriate and child-friendly circumstances.

6.2 In relation to the non-refoulement obligation, the author submits two medical reports dated 7 July 2020. According to the report by Angeles Perez Fuster and Nadia Bouatay, M.K.A.H. suffers from post-traumatic stress disorder and depression that are related to his traumatic experiences in Bulgaria, including imprisonment and violence at the hands of the Bulgarian police, the sudden disappearance of his father and other family members in the Syrian Arab Republic and the author's serious psychiatric problems. The report notes an improvement in M.K.A.H.'s condition, including his academic performance. It also emphasizes the supportive role that his extended family in Switzerland plays in his life. In addition, the report stresses the need for M.K.A.H. to be able to continue receiving regular and sustained medical treatment. The report concludes that an abrupt break with his environment in Switzerland would seriously imperil his childhood development.

6.3 The second medical report, by Jonathan Drai and assistant psychologist Méline Maksutaj, concerns the author. The report highlights her serious psychiatric problems, including anxiety and depression with associated suicidal ideation. The author has been receiving psychiatric and psychotherapeutic treatment, including anti-anxiety medication, for a year and a half. She sees her psychotherapist every two weeks. The medical report emphasizes that the author and her brother and sister-in-law in Switzerland have close ties and that these family ties are essential to the stabilization and maintenance of her psychological health. In addition, according to the report, a sudden interruption of her treatment would put her at risk of decompensation and suicide, a development that would require her immediate admission to a psychiatric hospital.

6.4 The author also agrees with the submitters of the third-party brief that the child's right to acquire a nationality, enshrined in article 7 of the Convention, interpreted in conjunction with the principle of the best interests of the child, requires States parties to carry out expulsions in such a way as not to make a child stateless or make it impossible for him or her to exercise his or her other fundamental rights under the Convention. She reiterates that, because of the lack of appropriate legislation in Bulgaria, the deportation of M.K.A.H. would put him at risk of being stateless for life.

Author's comments on the State party's observations

7.1 In her comments of 28 October 2020 on the State party's observations on admissibility and the merits, the author reiterates that she mentioned her psychiatric problems to the Swiss authorities.[11] She notes, for example, that on 12 December 2018 she informed the Federal Administrative Court that she was awaiting an appointment for a follow-up psychiatric

[11] In its observations, the State party uses the word "*auteur*" (author) for the child. It may be on account of that misleading usage that the author responded to the State party's argument by insisting that she had brought her medical condition to the attention of the State party's authorities.

consultation but that there were waiting times. On 24 June 2019, the author included a medical report dated 4 June 2019 in the request for reconsideration she submitted to the State Secretariat for Migration. The report states that the author suffers from severe depression and post-traumatic stress disorder and that she needs psychiatric treatment consisting of consultations twice a month and possibly also medication. In addition, the report states that the author is undergoing supportive psychotherapy, which is essential to the preservation of her psychological health and well-being. If the treatment is interrupted, her condition could easily worsen, possibly leading to insurmountable chronic disorders.

7.2 The author states that on 25 June 2019, the State Secretariat for Migration rejected her request for reconsideration on the grounds that it was not apparent from the medical certificate she had submitted that the necessary treatment and follow-up were of such a specialized nature that they could not be provided in Bulgaria. The author also states that another medical report obtained by the State party to determine whether she could fly notes that she suffers from severe post-traumatic stress, severe panic attacks and severe depressive episodes without psychotic symptoms. The report states that she may become agitated during the flight and that the outlook for the trip was "poor". She reiterates that her own psychiatric condition cannot be considered separately from M.K.A.H.'s, as she is his sole caregiver. If she has a breakdown and becomes unable to care for him properly, his well-being will be directly threatened.

7.3 In reply to the State party's argument that because Bulgaria is a party to human rights instruments, it would protect the rights of the author and M.K.A.H., the author submits that it fails to take into account the reality on the ground – that is, the risks of ending up in a street situation and of not benefiting from the right to health and education, as described in numerous reports.

7.4 In addition, the author notes that the Federal Administrative Court's conclusions concerning her son's lack of integration in Switzerland are no longer valid, since he has now spent more than two years in Switzerland. As a result of his efforts to learn French and other subjects, he is doing very well in school, is a serious student and is well integrated in his class. The teachers have attested to this progress in a letter to the Committee.

7.5 The author states that while a large segment of Bulgarian society is exposed to poverty, poor Bulgarian citizens speak Bulgarian and have extensive family, social and professional networks.

7.6 Finally, regarding the State party's argument that M.K.A.H. could have been heard had he proved that he had the requisite ability to form his own views, the author notes that, in the light of the wording of article 12 of the Convention, the State party has unduly reversed the burden of proof.

Additional observations by the State party

8.1 In its additional observations of 23 November 2020, the State party reiterates that M.K.A.H.'s health problems were never raised in the domestic proceedings. The State party does not deny that the author's health problems were put forward and refers to its observations on the admissibility and merits of the communication.

8.2 The State party also reiterates its view that articles 19 and 39 of the Convention are not directly applicable. It again states that the best interests of the child were taken into consideration by the Federal Administrative Court. The Court considered not only M.K.A.H.'s integration but also his age, personal and family ties and living conditions and access to education in Bulgaria.

Issues and proceedings before the Committee

Consideration of admissibility

9.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 20 of its rules of procedure under the Optional Protocol, whether the communication is admissible under the Optional Protocol.

9.2 The Committee notes the State party's argument that the author has not exhausted available domestic remedies with respect to her claims under articles 7, 12, 24, 28, 29 and 39 of the Convention. It observes that the author has not provided a sound reason for not having raised issues relating to alleged violations of article 29 of the Convention during the asylum procedure. The Committee therefore concludes that the claims under article 29 of the Convention, in particular with respect to the deportation of M.K.A.H. to Bulgaria, are inadmissible under article 7 (e) of the Optional Protocol.

9.3 The Committee notes that according to the State party's case law, article 12 of the Convention does not confer on the child an unconditional right to be heard orally and in person in any judicial or administrative proceedings affecting him or her and that a child can be given the opportunity to express him- or herself in a hearing only if he or she is capable of forming his or her own views – a capability that the very child who wishes to be heard must prove he or she has – and has the necessary maturity. The Committee also notes that the State party has not provided any explanation of the domestic legislation regulating the right of children to be heard or of the effective means available to M.K.A.H. to seek recourse for a violation of article 12 of the Convention. The Committee therefore finds this claim admissible under article 7 (e) of the Optional Protocol.

9.4 The Committee notes in particular the State party's argument that the author never claimed during the asylum procedure that M.K.A.H. had mental health problems and that the psychological assessment completed on 23 July 2019 by the Department of Child and Adolescent Psychiatry and Psychotherapy of the Fondation de Nant was never presented to the authorities responsible for the proceedings in Switzerland. The Committee observes that the author has not provided sound reasons for not having explicitly referred to her son's mental health during the asylum procedure. As a consequence, it concludes that the general claims under article 24 of the Convention, in particular with regard to M.K.A.H.'s removal to Bulgaria and its impact on access to necessary health services, are inadmissible under article 7 (e) of the Optional Protocol.

9.5 On the other hand, the Committee is of the opinion that the claims of violations of articles 7, 28 and 39 of the Convention were raised in substance during the asylum procedure and finds these claims admissible under article 7 (e) of the Optional Protocol.

9.6 The Committee takes note of the State party's contention that the provisions of articles 2 (2), 3 (1), 6 (2), 16, 22, 24, 27, 28, 29 and 39 of the Convention do not provide a basis for individual rights whose violation may be invoked before the Committee.[12] In this regard, the Committee reiterates that the Convention recognizes the interdependence and equal importance of all rights (civil, political, economic, social and cultural) in enabling all children to develop their mental and physical abilities, personality and talents to the maximum extent possible.[13] It also reiterates that the concept of the best interests of the child, as enshrined in article 3 of the Convention, is a threefold concept that is at the same time a substantive right, an interpretative principle and a rule of procedure.[14] The Committee notes that, under article 5 (1) (a) of the Optional Protocol, individual communications may be submitted against a State party to the Convention by or on behalf of individuals or groups of individuals claiming to be victims of a violation by that State party of any of the rights set forth in the Convention. Accordingly, the Committee is of the view that there is nothing in article 5 (1) (a) of the Optional Protocol to suggest a limited approach to the rights whose violation may be invoked in the individual communications procedure. The Committee also notes that in the past, it has, under the individual communications mechanism, ruled on alleged violations of the articles invoked in the present communication.[15]

9.7 The State party also argues that the communication is inadmissible under article 7 (f) of the Optional Protocol, since it is manifestly ill-founded or insufficiently substantiated. The Committee is of the view that the author has not provided sufficient evidence to substantiate

[12] *E.A. and U.A. v. Switzerland* (CRC/C/85/D/56/2018), para. 6.5.

[13] Committee on the Rights of the Child, general comment No. 15 (2013), para. 7.

[14] Committee on the Rights of the Child, general comment No. 14 (2013), para. 6.

[15] *M.T. v. Spain* (CRC/C/82/D/17/2017), para. 12.5, *C.R. v. Paraguay* (CRC/C/83/D/30/2017), para. 7.5, and *J.A.B. v. Spain* (CRC/C/81/D/22/2017), para. 12.5.

her claims regarding article 2 (2) of the Convention. It therefore declares these claims manifestly ill-founded and inadmissible under article 7 (f) of the Optional Protocol.

9.8 The Committee is nonetheless of the opinion that, for purposes of admissibility, the author has sufficiently substantiated her claims regarding articles 3 (1), 6 (2), 7, 12, 16, 22, 27, 28, 37 and 39 of the Convention, according to which: (a) the State party failed to respect the best interests of the author's child and failed to hear the child's views at the time of examination of the asylum application; and (b) M.K.A.H. is at real risk of inhuman and degrading treatment and would not benefit from appropriate measures of physical and psychological recovery if he were returned to Bulgaria. The Committee therefore declares this part of the communication admissible and proceeds with its consideration of the merits.

Consideration of the merits

10.1 In accordance with article 10 (1) of the Optional Protocol, the Committee has considered the communication in the light of all the information submitted to it by the parties.

10.2 The Committee takes note of the author's allegations that the State party failed to take the best interests of the child into account when considering the application for asylum, in violation of article 3 of the Convention. It also notes the author's claims that M.K.A.H.'s rights under articles 3 (1), 6 (2), 22, 27, 28, 37 and 39 of the Convention would be violated if she and M.K.A.H. were returned to Bulgaria and that in Bulgaria he, as a child traumatized by the armed conflict in the Syrian Arab Republic and by his experience as a refugee, would not have access to the support he would need to live a life in dignity, with access to education, housing, medical care and the social support that would make his social reintegration and rehabilitation possible. The Committee also takes into account the author's claims that her mental health, including the serious psychiatric disorders she is suffering from, cannot be dissociated from her child's, since she would be the only person capable of giving him the care he would need in Bulgaria.

10.3 The Committee notes the State party's argument that the Federal Administrative Court took into account the best interests of the child when it ruled on M.K.A.H.'s removal to Bulgaria by considering his age, his ties to his cousins and uncle in Switzerland and the length of his stay – some seven months – in the country. The Committee also notes the author's claims that, in their decisions, the Swiss authorities did not take into account in their analysis of the best interests of the child her claims that: (a) M.K.A.H. had been subjected to xenophobic verbal and physical abuse in Bulgaria; (b) M.K.A.H. had been detained in inhuman conditions and had endured inhuman living conditions in the camps and would be severely traumatized anew by being sent back to Bulgaria; (c) in Bulgaria, for nearly a year, M.K.A.H. had not gone to school; (d) neither M.K.A.H. nor she herself had received any integration assistance in Bulgaria; (e) neither M.K.A.H. nor the author had any family in Bulgaria; (f) the author is at risk of a breakdown as a result of her mental health problems and the lack of access to appropriate health care; (g) M.K.A.H. and the author would be at risk of homelessness and life on the streets, since Bulgaria has a clearly lacking integration policy; and (h) M.K.A.H. would have no nationality.

10.4 The Committee refers to its general comment No. 6 (2005), in which it states that States are not to return a child to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child, such as, but by no means limited to, those contemplated under articles 6 and 37 of the Convention, and that such non-refoulement obligations apply irrespective of whether serious violations of those rights guaranteed under the Convention originate from non-State actors or whether such violations are directly intended or are the indirect consequence of action or inaction. The assessment of the risk of such serious violations should be conducted in an age- and gender-sensitive manner.[16] Such an assessment should be carried out following the principle of precaution and, where there are reasonable doubts about the ability of the receiving State to protect the child from such risks, States parties should refrain from deporting the child.[17]

[16] Committee on the Rights of the Child, general comment No. 6 (2005), para. 27, and Committee on the Elimination of Discrimination against Women, general recommendation No. 32 (2014), para. 25.

[17] *K.Y.M. v. Denmark* (CRC/C/77/D/3/2016), para. 11.8.

10.5 The Committee reiterates that the best interests of the child should be a primary consideration in decisions concerning the deportation of a child and that such decisions should ensure – within a procedure with proper safeguards – that the child will be safe and provided with proper care and enjoyment of rights.[18] The Committee also reiterates that the burden of proof does not rest solely on the author of the communication, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to the relevant information.[19]

10.6 In this regard, the Committee takes note of the reports cited by the author and in the third-party submission, according to which Bulgaria does not have an integration programme for beneficiaries of international protection and that they face serious difficulties in gaining access to housing, employment, social assistance and health care. It takes particular note of the report of the Office of the United Nations High Commissioner for Refugees of October 2019, which states that the lack of adequate reception conditions and integration prospects compels many applicants to leave the country before their claims have been processed or shortly after they have been granted asylum, that there are no targeted support measures for integration in Bulgaria or any measures for persons with specific needs and that the risk of homelessness is real.[20] The Committee also takes account of the Views adopted in *R.A.A. and Z.M. v. Denmark*, a case in which the Human Rights Committee found that the return of a couple and their child to Bulgaria would violate their rights under article 7 of the International Covenant on Civil and Political Rights, as they would be at risk of hardship and destitution and the father would not have access to the medical treatment he needed.[21]

10.7 The Committee observes that the State party has taken into account in its analysis of the asylum application that Bulgaria is a party to human rights and subsidiary protection instruments, including Directive 2011/95/EU, but that it did not take due account of the numerous reports indicating that children in situations similar to that of M.K.A.H. face a real risk of inhuman or degrading treatment. The Committee also observes that the State party failed to take due account of M.K.A.H.'s status as a victim of armed conflict and an asylum seeker who allegedly suffered ill-treatment during his stay in Bulgaria and that it did not attempt an individualized assessment of the risk that M.K.A.H. would face in Bulgaria by verifying how he and the author would be received, including in respect of access to education, employment, housing, medical care and other services necessary for the child's physical and psychological recovery and social reintegration.[22] The Committee takes note of the State party's argument that there are charitable organizations in Bulgaria that third-country nationals can turn to. However, the Committee is of the view that the support of charitable organizations is a stopgap, not evidence that States are fulfilling their obligations.

10.8 The Committee reckons that the State party also seems not to have given due consideration to the author's mental health problems, which was referred to in medical reports, or to have looked into whether her particular medical needs could be met in Bulgaria. The Committee is of the view that the mental health of the mother, the only person the child can turn to, his only caregiver, is essential to the child's harmonious development and survival. In this respect, it notes that the author does not speak Bulgarian and that she would find it very difficult to enter the local labour market and would not have the wherewithal to obtain health services.

[18] See joint general comment No. 3 of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No.22 (2017) of the Committee on the Rights of the Child, paras. 29 and 33.

[19] *M.T. v. Spain* (CRC/C/82/D/17/2017), para. 13.4, *El Hassy v. Libyan Arab Jamahiriya* (CCPR/C/91/D/1422/2005), para. 6.7, and *Medjnoune v. Algeria* (CCPR/C/87/D/1297/2004), para. 8.3.

[20] Office of the United Nations High Commissioner for Refugees, Submission by the United Nations High Commissioner for Refugees for the Office of the High Commissioner for Human Rights' compilation report – Universal Periodic Review: 3rd cycle, 36th session. Submission for the universal periodic review of Bulgaria, October 2019, pp. 1 and 3.

[21] *R.A.A. and Z.M. v. Denmark*, paras. 7.7 and 7.9; see also *A.N. v. Switzerland* (CAT/C/64/D/742/2016), para. 8.7.

[22] *Jasin et al. v. Denmark* (CCPR/C/114/D/2360/2014), para. 8.9, and *Y.A.A. and F.H.M. v. Denmark* (CCPR/C/119/D/2681/2015), para. 7.7.

10.9 Accordingly, the Committee is of the opinion that the State party failed to make the best interests of M.K.A.H. a primary consideration when it assessed the risks he would face if he were returned to Bulgaria or to take the precautions it should have to ensure that he would not be subjected to inhuman or degrading treatment in the country of destination, failures that constitute a violation of article 3 (1) of the Convention and potential violations of articles 6 (2), 22, 27, 28, 37 and 39.

10.10 The Committee notes that when the author and M.K.A.H. applied for asylum, they explicitly stated that M.K.A.H. was stateless. It notes that the State party has not attempted to determine whether the child might have access to a nationality in Bulgaria. The Committee is of the view that under article 7 of the Convention, States are required to take proactive steps to ensure that the right to acquire a nationality can be exercised. The State party, apprised of M.K.A.H.'s statelessness, should have taken all necessary steps to ensure that he would have access to a nationality if he were returned to Bulgaria. The Committee therefore believes that, in the circumstances, M.K.A.H.'s rights under article 7 of the Convention would be violated if he were returned to Bulgaria.

10.11 The Committee takes note of the author's claim that, because the national authorities did not hear M.K.A.H. – then 11 years old – during the asylum proceedings, the State party violated article 12 of the Convention. It also takes note of the State party's arguments that the child was not heard because of his youth and because he exercised his right to be heard through his mother. The Committee stresses that article 12 of the Convention guarantees the right of the child to be heard in any judicial and administrative proceedings affecting him or her, either directly, or through a representative. It also stresses that after the child has decided to be heard, he or she will have to decide how to be heard: either directly or through a representative or an appropriate body.[23] In addition, the Committee notes that article 12 contains no mention of an age beneath which the right of the child to express his or her views is limited and discourages States parties from introducing, either in law or in practice, age limits that would interfere with a child's right to be heard in all matters affecting him or her. The Committee does not agree with the State party's argument that M.K.A.H. himself should have demonstrated his ability to form his own views and explicitly requested a hearing. The Committee points out that determining the best interests of the child requires that the child's situation be assessed separately, notwithstanding the reasons for which his or her parents applied for asylum.[24] The Committee is therefore of the view that, in the circumstances, the failure to hear the child directly was a violation of article 12 of the Convention.

10.12 With regard to article 16, the Committee notes the author's claims that the removal order would also violate M.K.A.H.'s rights because he would be separated from his uncle and cousins, his only family members in Europe, and that the relationship with them is fundamental to his well-being and social reintegration. The Committee also notes the State party's argument that M.K.A.H. would be returned to Bulgaria with his mother and that the Federal Administrative Court was of the view that his relationship with his uncle and cousins was not one of dependence. The Committee reiterates that "family", as the word is used in the Convention, refers to a variety of arrangements that can provide for young children's care, nurturance and development, including the nuclear family, the extended family and other traditional and modern community-based arrangements.[25] The Committee is of the opinion that in the particular circumstances of this case, the separation of M.K.A.H. from his cousins and uncle is likely to further hamper his development and social reintegration. The Committee concludes that returning M.K.A.H. to Bulgaria would therefore constitute arbitrary interference with his privacy, in violation of his rights under article 16 of the Convention.

11. The Committee, acting under article 10 (5) of the Optional Protocol, finds that the facts of which it has been apprised constitute a violation of articles 3 (1) and 12 of the Convention and that the return of M.K.A.H. and his mother to Bulgaria would constitute a violation of articles 6 (2), 7, 16, 22, 27, 28, 37 and 39.

[23] Committee on the Rights of the Child, general comment No. 12 (2009), para. 35. See also ibid., paras. 36 and 37.

[24] *E.A. and U.A. v. Switzerland*, para. 7.3.

[25] Committee on the Rights of the Child, general comment No. 7 (2005), para. 15.

12. Accordingly, the State party is obligated to:

(a) Reconsider the decision to deport M.K.A.H. and his mother to Bulgaria under the Agreement between the Swiss Federal Council and the Government of the Republic of Bulgaria on the readmission of persons staying without authorization;

(b) Urgently review the author's and M.K.A.H.'s asylum application, ensuring that the best interests of the child are a primary consideration and that M.K.A.H. is duly heard, while taking into account the particular circumstances of the case, including, on one hand, the mental health problems the author and her child are dealing with as a result of the many traumatic events they have experienced as victims of armed conflict and asylum seekers, and their need for specific treatment, as well as the accessibility of such treatment in Bulgaria, and, on the other hand, the conditions in which M.K.A.H., a child accompanied only by his mother, who does not speak Bulgarian, would be received in Bulgaria;

(c) Take into account, when it reviews the asylum application, the risk of M.K.A.H.'s remaining stateless in Bulgaria;

(d) Ensure that M.K.A.H. receives qualified psychosocial assistance to facilitate his rehabilitation;

(e) Take all necessary measures to ensure that such violations do not recur, including by: (i) removing all legal, administrative and financial obstacles with a view to ensuring that all children have access to appropriate means of challenging decisions affecting them; (ii) ensuring that children are systematically heard in the context of asylum procedures; and (iii) ensuring that national protocols for the return and readmission of children to third countries are in compliance with the Convention.[26]

13. Pursuant to article 11 of the Optional Protocol, the Committee wishes to receive from the State party, as soon as possible and within 180 days, information about the steps it has taken to give effect to the Committee's Views. The State party is also requested to include information about any such steps in its reports to the Committee under article 44 of the Convention. Lastly, the State party is requested to publish the present Views and have them widely disseminated in its official languages.

[26] *E.A. and U.A. v. Switzerland*, para. 9.