



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. 126/2020* ** **

<i>Communication submitted by:</i>	M. F. (represented by counsel)
<i>Alleged victim(s):</i>	W. F., A. F., J. F. and K. F.
<i>State party:</i>	Switzerland
<i>Date of communication:</i>	12 November 2020 (initial submission)
<i>Subject matter:</i>	Deportation of four children, Syrian nationals of Kurdish identity, and their mother (rejected asylum-seekers) to Bulgaria, where they had already experienced deplorable living conditions, including lack of access to medical care and education.
<i>Substantive issues:</i>	Best interests of the child; right to life; prohibition of torture and ill-treatment; right to health; right to education; refugee status
<i>Article(s) of the Convention:</i>	3, 6, 19, 22, 23, 24, 26, 27, 28, 37 and 39

1. The author of the communication is M. F., a Syrian national born in 1995. She submits the communication on behalf of her four children: W. F., born in 2009, A. F., born in 2010, J. F., born in 2011, and K. F., born in 2013, all of whom are Syrian nationals of Kurdish identity. She claims that their deportation to Bulgaria would constitute a violation by the State party of their rights under articles 3, 6, 19, 22, 23, 24, 26, 27, 28, 37 and 39 of the Convention. The author is represented by counsel. The Optional Protocol entered into force for the State party on 24 July 2017.

2. The author was born in the Syrian Arab Republic. At the age of 11, she entered into a forced marriage. From the first day of their marriage, her husband repeatedly beat and raped her. She had her four children when she was still a teenager. In early 2017, the family decided to leave the Syrian Arab Republic because of the war. All family members arrived in Bulgaria in the summer of 2017 and were granted asylum on 11 August 2017. They were evicted from

* Adopted by the Committee at its ninety-second session (16 January–3 February 2023).

** The following members of the Committee participated in the examination of the communication: Suzanne Aho, Aïssatou Alassane Moulaye, Hynd Ayoubi Idrissi, Bragi Gudbrandsson, Gehad Madi, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, José Ángel Rodríguez Reyes, Ann Skelton, 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 and Velina Todorova did not participate in the consideration of the communication.



the camp where they were staying without anyone ensuring that the children had access to education and health care. Due to the lack of employment opportunities and social assistance, they were forced to beg for food on the streets. They decided to leave Bulgaria and applied for asylum in Germany on 15 November 2017. The author's husband continued to be extremely abusive; the author obtained protection measures on 16 July 2019 and filed for divorce. Fearing her husband, the author decided to leave Germany for Switzerland.

3. On 28 May 2020, the author and her children applied for asylum in Switzerland. On 27 August 2020, the State Secretariat for Migration ordered their removal to Bulgaria, where they had already been recognized as refugees. On 3 September 2020, the author appealed the Secretary of State's decision before the Federal Administrative Court, which denied the appeal on 18 September 2020.

4. In accordance with article 6 of the Optional Protocol, on 18 November 2020, the Committee, through its Working Group on Communications, requested the State party to adopt interim measures by suspending the deportation of the author and her four children to Bulgaria pending the consideration of her case by the Committee.

5. On 4 March 2021, the State party requested discontinuance of the communication, as the State Secretariat for Migration had initiated a review of the author's and her children's asylum application and they were no longer at risk of being returned to Bulgaria.

6. On 14 April 2021, the author submitted comments on the State party's request to discontinue the communication. She confirmed that the authorities had heard the children in the asylum procedure, that they were awaiting a decision on their asylum application and that they were no longer at risk of being sent back to Bulgaria.

7. On 28 April 2021, the Committee, acting through its Working Group on Communications, decided to suspend its consideration of the communication.

8. On 31 May 2022, the State party again requested that the communication be discontinued. It stated that, on 23 May 2022, the State Secretariat for Migration had issued a decision granting asylum to the author and her children, recognizing them as refugees under articles 3 (paras. 1 and 2) and 51 (para. 1) of the Asylum Act of 26 June 1998. As a result, the author and her children were no longer at risk of being sent back to Bulgaria.

9. On 15 August 2022, the author indicated that she did not object to the State party's request to discontinue consideration of the communication, as it was in accordance with the Committee's practice, while noting that a decision on the merits of the case would allow the Committee to rule on an important issue of principle – namely, the legality of the return of vulnerable asylum-seeking children with their families to Bulgaria – and thus set an important precedent for many other children.

10. At its meeting of 25 January 2023, the Committee, having considered the author's request, decided to discontinue its consideration of communication No. 126/2020 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.
