



**Convention on the
Rights of the Child**
Unedited version

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Committee on the Rights of the Child

**Decision adopted by the Committee on the Rights of the
Child under the Optional Protocol to the Convention on the
Rights of the Child on a communications procedure in
respect of communication No. 126/2020*, **,*****

<i>Communication submitted by:</i>	M.F. (represented by counsels)
<i>Alleged victim:</i>	W.F., A.F., J.F and K.F
<i>State party:</i>	Switzerland
<i>Date of communication:</i>	12 November 2020
<i>Date of adoption of decision:</i>	25 January 2023
<i>Subject matter:</i>	Deportation of four children, Syrian nationals of Kurdish identity, and their mother (failed asylum seekers) to Bulgaria, where they had previously faced deplorable living conditions, including lack of access to medical care and education
<i>Procedural issue:</i>	-
<i>Articles of the Convention:</i>	3, 6, 19, 22, 23, 24, 26, 27, 28, 37 and 39
<i>Articles of the Optional Protocol:</i>	-

* 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 Sidikou, Hynd Ayoubi Idrissi, Bragi Gudbrandsson, Gehad Madi, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, José Ángel Rodríguez Reyes, Ann Marie 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 examination of the communication.

1. The author of the communication is M.F. 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 Syrian nationals of Kurdish identity. She claims that their deportation to Bulgaria would violate her children's rights under 3, 6, 19, 22, 23, 24, 26, 27, 28, 37 and 39 of the Convention. The Optional Protocol entered into force for the State party on 24 July 2017.
2. The author was born in Syria. At the age of 11 she was forced into marriage. From the first day of their marriage, her husband beat her and raped her repeatedly. She had her four children while she was still a teenager. In early 2017, the family decided to leave Syria because of the war. They arrived in Bulgaria during the summer of 2017 and were granted asylum on 11 August 2017. They were expelled from the asylum camp without ensuring that the children had access to education and health care. Given the lack of employment opportunities and social welfare assistance, they were forced to beg for food in the streets. They decided to leave Bulgaria and, on 15 November 2017, they claimed asylum in Germany. The author's husband continued to be extremely violent and the author was granted protection measures on 16 July 2019 and filed for a divorce. Fearing her husband, the author decided to leave Germany for Switzerland.
3. On 28 May 2020, the author and her children claimed asylum in Switzerland. On 27 August 2020, the State Secretariat for Migrations ordered the removal of the family to Bulgaria where they had been already recognized as refugees. On 3 September 2020, the authors appealed the State Secretariat for Migrations decision to the Administrative Federal Court, which dismissed the appeal on 18 September 2020.
4. Pursuant to article 6 of the Optional Protocol, on 18 November 2020, the Committee, acting through its working group on communications, requested that the State party adopt interim measures –to suspend the deportation of the author and her four children to Bulgaria pending the consideration of his case by the Committee –.
5. On 18 November 2021, the State party requested the discontinuance of the communication as the State Secretariat for Migration had initiated proceedings to reconsider the authors' asylum claim and they were no longer at risk of removal to Bulgaria.
6. On 14 April 2021, the authors submitted their comments on the State party's request for discontinuance. They confirmed that the authorities have heard the children as part of the asylum proceedings, that they were waiting for a decision on their asylum claim and that they were no longer at risk of removal to Bulgaria.
7. On 28 April 2021, the Committee, acting through its working group on communications, decided to suspend the consideration of the communication.
8. On 31 May 2022, the State party requested again the communication to be discontinued. The State party informed that on 23 May 2022, the State Secretariat for Migration issued a decision granting asylum to the authors and recognizing them as refugees under Articles 3 (1) and (2) and 51 (1) of the Asylum Act of 26 June 1998. Therefore, the authors were no longer at risk of removal to Bulgaria.
9. On 15 August 2022, the authors submitted that they did not oppose the request for discontinuance insofar as this is in accordance with the Committee's own practice, but noted that a decision on the merits of the case would allow the Committee to decide on an important point of principle (the lawfulness of returning vulnerable child asylum applicants – together with their families – to Bulgaria) and thus of setting an important precedent for many other children.
10. At its meeting on 25 January 2023, the Committee, having considered that the children no longer risked being returned to Bulgaria, concluded that the subject matter of the communication had become moot and decided to discontinue the consideration of the 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.