

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. 201/2022*, **

<i>Communication submitted by:</i>	M.D.S. and M.S. (represented by counsel, Kirsi Hytinantti)
<i>Alleged victims:</i>	M.R.S., J.S. and S.S.
<i>State party:</i>	Finland
<i>Date of communication:</i>	2 November 2022
<i>Subject matter:</i>	Return of an Afghan refugee family to Bulgaria under the Dublin Regulation
<i>Articles of the Convention:</i>	3, 6, 12, 22, 24, 27, 37, 39

1. The authors of the communication are M.D.S. and M.S., nationals of Afghanistan born in 1984 and 1990, respectively. They submit the communication on behalf of their children, M.R.S., J.S. and S.S., nationals of Afghanistan, born in 2009, 2011 and 2017, respectively. The authors allege that the State party has violated the rights of M.R.S., J.S. and S.S. by deciding to return them to Bulgaria. The authors are represented by counsel. The Optional Protocol entered into force for the State party on 12 February 2016.

2. The authors fled Afghanistan in 2015 with M.R.S. and J.S. because M.D.S. was persecuted by the Taliban. In 2018, the family obtained refugee status in Bulgaria. However, they decided to flee Bulgaria as they received no protection from threats from the smugglers who had assisted their journey and affiliated members of the Bulgarian mafia, who attacked M.D.S. and broke M.R.S.'s leg. On 27 December 2018, the family applied for asylum in Finland. On 3 June 2019, the Immigration Service declared the asylum application inadmissible and ordered the family's return to Bulgaria. On 25 September 2019, the Helsinki Administrative Court rejected their appeal. On 28 February 2020, the Supreme Administrative Court refused to grant leave to appeal. On 31 December 2021, the Immigration Service declared the family's second asylum application inadmissible. On 18 January 2022, the Helsinki Administrative Court prohibited the enforcement of the family's removal to Bulgaria until the Court would have adjudicated the matter. On 18 October 2022, the Helsinki Administrative Court rejected the family's appeal. On 27 October 2022, the Supreme Administrative Court rejected the family's appeal against the enforcement of the removal order, thereby rendering the deportation order executable. On 13 December 2022,

* Adopted by the Committee at its ninety-ninth session (5-23 May 2025).

** The following members of the Committee participated in the examination of the communication: Suzanne Aho, Thuwayba Al Barwani, Hynd Ayoubi Idrissi, Mary Beloff, Rinchen Chopel, Rosaria Correa, Tomothy P.T. Ekesa, Bragi Gudbrandsson, Mariana Ianachevici, Philip Jaffé, Sopia Kiladze, Cephas Lumina, Faith Marchall-Harris, Benyam Dawit Mezmur, Aissatou Alassane Sidikou, Juliana Scerri Ferrante, Zeinebou Taleb Moussa and Benoit Van Keirsbilck.

the Supreme Administrative Court suspended the enforcement of their removal pending the adjudication.

3. On 22 November 2022, the Committee, acting through its working group on communications, registered the communication and granted interim measures under article 6 of the Optional Protocol requesting the suspension of the return of M.R.S., J.S. and S.S. and their parents to Bulgaria while the case was pending before the Committee.

4. On 23 January 2023, the State party submitted its observations on the admissibility of the communication and requested the Committee to examine the admissibility separately from the merits. The State party argued that the communication was inadmissible *ratione personae* and *ratione loci*, that the authors had not exhausted domestic remedies and that the communication is insufficiently substantiated and manifestly ill-founded.

5. On 14 April 2023, the authors submitted their comments on the State party's request. On 3 December 2024, they requested the Committee to discontinue its consideration of the communication as on 7 November 2024, they and their children had received residence permits based on individual humanitarian grounds and therefore no longer risked being deported to Bulgaria. On 19 December 2024, the State party also requested the Committee to discontinue its consideration of the communication.

6. At its meeting on 19 May 2025, the Committee, taking into account that M.R.S., J.S. and S.S. had been granted residence permits and were therefore no longer at risk of being returned to Bulgaria, considered that the case had become moot and decided to discontinue consideration of communication No. 201/2022, 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.
