



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. 82/2019* **

<i>Communication submitted by:</i>	Z.A. (represented by counsel, Dominik Andreas Bender)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Germany
<i>Date of communication:</i>	6 April 2019
<i>Subject matter:</i>	Deportation of author from Germany to Sweden
<i>Substantive issues:</i>	Non-refoulement; best interests of the child; right to life; right to health
<i>Articles of the Convention:</i>	3 (1), 6, 23 (1) and 24 (1)

1. The author of the communication is Z.A., a national of Somalia born in 2008. At the time of the submission of the complaint he was facing deportation from Germany to Sweden, where his asylum application had been rejected. The author claimed that if he were removed to Sweden he would not have access to medical aid and assistance that was essential to not only his well-being but to his survival, and that his deportation to Sweden would thus violate his rights under articles 3 (1), 6, 23 (1) and 24 (1) of the Convention.

2. In his complaint, the author noted that he had been born in Somalia, where he had been diagnosed with severe spastic paralysis. He was unable to move or walk. In August 2015, the author's and his mother's applications for asylum in Sweden had been rejected in a final decision. They left Sweden in February 2018 and entered Germany, where they had applied for asylum. In a decision made by the Federal Office for Migration and Refugees on 4 April 2018, their asylum applications had been considered inadmissible on the basis of Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013 (the Dublin III Regulation). The author and his mother had been deported to Sweden on 21 August 2018. The author claimed that in Sweden he and his mother had not been provided with accommodation, food or assistance. They had therefore returned to Germany on 4 September 2018, where they had again applied for asylum. The application had been rejected by the Federal Office for Migration and Refugees on 19 December 2018, on the same

* Adopted by the Committee at its eighty-sixth session (18 January–5 February 2021).

** The following members of the Committee participated in the examination of the communication: Suzanne Aho Assouma, Hynd Ayoubi Idrissi, Bragi Gudbrandsson, Philip Jaffé, Olga A. Khazova, Gehad Madi, Benyam Dawit Mezmur, Otani Mikiko, Luis Ernesto Pedernera Reyna, José Ángel Rodríguez Reyes, Ann Marie Skelton, Velina Todorova and Renate Winter.



grounds cited in its previous decision, namely, inadmissibility on the basis of the Dublin III Regulation.

3. On 7 June 2019, the State party submitted its observations on the admissibility of the complaint. It argued that the communication should be declared inadmissible for failure to exhaust domestic remedies as, at the time of the submission of the complaint, the author had an appeal pending before the Federal Constitutional Court. The State party further noted that in the information provided to its embassy in Stockholm, Swedish authorities had indicated that children were provided with access to full health care, regardless of residence permits. It further noted that the author's claims had been assessed by its domestic authorities, which had found that it had not been substantiated that the author or his mother would be at risk of inhuman or degrading treatment if returned to Sweden. The State party therefore submitted that the complaint was without merit.

4. On 2 June 2020, the author provided his comments on the State party's observations. He maintained that the communication was admissible. However, he informed the Committee that he was withdrawing his complaint before the Committee, as his deportation to Sweden was no longer possible due to the expiry of the deadline for transfer under the Dublin III Regulation.

5. At a meeting on 4 February 2021, the Committee, in the light of the author's notification of withdrawal, considered that the case had become moot and decided to discontinue the consideration of communication No. 82/2019 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.
