



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Decision adopted by the Committee under the Optional Protocol, concerning communication No. 80/2020*, **

<i>Communication submitted by:</i>	A.M.G. and A.N.S. (represented by counsel, Bo Johansson, of the Swedish Refugee Advice Centre)
<i>Alleged victim:</i>	O.M.G.
<i>State party:</i>	Sweden
<i>Date of communication:</i>	6 February 2020 (initial submission)
<i>Date of adoption of decision:</i>	19 March 2024
<i>Substantive issue:</i>	Removal to Afghanistan

1. The authors of the communication are A.M.G. and A.N.S. They are submitting the communication on behalf of their son, O.M.G., a national of Afghanistan belonging to the Uzbek ethnic group, born on 1 February 2015 in the Islamic Republic of Iran. The authors claim that the removal of O.M.G., who has autism, to Afghanistan would amount to violations by the State party of articles 7, 11, 15, 24 and 26 of the Convention. The Optional Protocol entered into force for the State party on 14 January 2009. The authors are represented by counsel.

2. In 1998, the authors escaped from their home village of Teber, in Sar-e Pul Province, Afghanistan, because O.M.G.'s grandfather had killed the son of a military commander and they were at risk of persecution. The family settled in the Islamic Republic of Iran, and on an unspecified date they decided to move to Sweden.

3. On 13 November 2015, the authors and O.M.G. applied for asylum in Sweden. In 2016, O.M.G.'s sister was born. On 20 September 2017, the Swedish Migration Agency rejected their request for refugee status. The family was ordered to leave Sweden no later than four weeks after the decision became legally binding.

4. On 4 March 2019, the Administrative Court in Malmö confirmed the decision of the Swedish Migration Agency. Among other elements, the Court examined a certificate issued by a psychologist and an extract of O.M.G.'s medical records, according to which O.M.G. "[met] the criteria for the diagnosis of autism". The Court concluded that, whether considered alone or with other circumstances, that fact was not sufficient to grant him a residence permit.

* Adopted by the Committee at its thirtieth session (4–22 March 2024).

** The following members of the Committee participated in the consideration of the communication: Muhannad Salah Al-Azzeh, Rosa Idalia Aldana Salguero, Rehab Mohammed Boresli, Gerel Dondovdorj, Gertrude Oforiwa Fefoame, Vivian Fernández de Torrijos, Odelia Fitoussi, Amalia Eva Gamio Ríos, Laverne Jacobs, Samuel Njuguna Kabue, Rosemary Kayess, Kim Mi Yeon, Alfred Kouadio Kouassi, Abdelmajid Makni, Sir Robert Martin, Floyd Morris, Markus Schefer and Saowalak Thongkuay.



On 9 April 2019, the Administrative Court of Appeal in Stockholm denied leave to appeal against the decision.

5. The authors lodged two applications for residence permits on the basis of impediments to the enforcement of the expulsion decision, invoking the state of health of O.M.G.'s mother, O.M.G.'s diagnosis with autism and the situation in Afghanistan. They submitted a statement issued on 9 June 2019 by the Child and Adolescent Habilitation Unit in Hässleholm, which described the progress that O.M.G. had made as a result of the therapies that he had been following since April 2018 and noted serious risks to his well-being if such therapies were interrupted. In its decision of 13 June 2019, the Swedish Migration Agency refused to assess this information, stating that the Administrative Court in Malmö had previously found that O.M.G.'s diagnosis with autism did not constitute grounds for granting him a residence permit.

6. On 17 February 2020, the special rapporteur on new communications and interim measures, acting on behalf of the Committee under article 4 of the Optional Protocol to the Convention, requested the State party to refrain from removing O.M.G. to Afghanistan while his case was under consideration.

7. In its observations of 15 October 2020, the State party submitted that the decision to expel O.M.G. would become statute-barred on 9 April 2023.

8. In their observations of 12 June 2023, the authors informed the Committee that, on 26 April 2023, O.M.G. had been granted a residence permit and refugee status in Sweden.

9. At a meeting on 19 March 2024, the Committee, observing that O.M.G. was no longer at risk of being expelled to Afghanistan, concluded that the subject matter of the communication had become moot and decided to discontinue the consideration of communication No. 80/2020.
