



# 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 establishing a communications procedure, concerning communication No. 204/2022<sup>\*</sup>, <sup>\*\*</sup>, <sup>\*\*\*</sup>

<i>Communication submitted:</i>	A. J. and N. J. (represented by counsel, Immacolata Iglio Rezzonico)
<i>Alleged victims:</i>	H. J. and A. J.
<i>State party:</i>	Switzerland
<i>Date of communication:</i>	22 November 2022 (initial submission)
<i>Subject matter:</i>	Return of two children to Bosnia and Herzegovina
<i>Substantive issues:</i>	Discrimination; best interests of the child; right to life; refugee status; right to health
<i>Article(s) of the Convention:</i>	2 (2), 3, 6, 12, 22 and 24

1. The authors of the communication are A. J., born on 25 October 1985, and N. J., born on 30 May 1989, nationals of Bosnia and Herzegovina. They submit the communication on behalf of their son H. J., born on 19 March 2007, and their daughter A. J., born on 28 July 2011, also nationals of Bosnia and Herzegovina. The authors claim that, by returning their children to Bosnia and Herzegovina, the State party would be violating their rights under articles 2 (2), 3, 6, 12, 22 and 24 of the Convention. They are represented by counsel. The Optional Protocol entered into force for the State party on 24 July 2017.

2. The authors are Muslims who, as children, lived through the break-up of the former Federal Republic of Yugoslavia and the civil war that ravaged Bosnia and Herzegovina. From 2010 to 2018, the father of the family, A. J., worked for the United States Army in Afghanistan. Following his return to Bosnia and Herzegovina, the authors constantly changed address for fear of reprisals linked to A.J.'s work in Afghanistan. On 13 October 2021, A. J. was caught in an ambush. It was then that the authors decided to leave for Switzerland, where they arrived in October 2021 with their children, H. J. and A. J.

3. On 25 October 2021, the authors applied for asylum. On 9 December 2021, the State Secretariat for Migration interviewed the authors' son H. J., but not their daughter A. J.,

\* Adopted by the Committee at its ninety-sixth session (6–24 May 2024).

\*\* The following Committee members took part in the examination of the communication: Suzanne Aho, Aïssatou Alassane Moulaye, Thuwayba Al Barwani, Hynd Ayoubi Idrissi, Mary Beloff, Rinchen Chopel, Rosaria Correa, Bragi Gudbrandsson, Otani Mikiko, Luis Ernesto Pedernera Reyna, Ann Skelton, Velina Todorova, Benoit Van Keirsbilck and Ratou Zara.

\*\*\* In accordance with article 8 (1) (a) of the rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, Philip Jaffé did not take part in the consideration of the communication.



because she was under the age of 14 years old. On 22 December 2021, the State Secretariat rejected their asylum application and ordered their return to Bosnia and Herzegovina, a country declared safe by the Swiss Federal Council. On 20 January 2022, the Federal Administrative Court rejected the authors' appeal against the State Secretariat's decision, ruling that article 3 of the Convention did not preclude the return of the children, H. J. and A. J., to Bosnia and Herzegovina.

4. On 6 July 2022, the State Secretariat for Migration rejected a request for review submitted by the authors, noting, with regard to article 3 of the Convention, that the children, H. J. and A. J., had left Bosnia and Herzegovina with their mother, N. J., and that barely nine months had elapsed since their arrival in Switzerland – a short period that did not allow for them to have created strong ties with Switzerland. On 9 September 2022, the Federal Administrative Court rejected the authors' appeal against this decision, dismissing the authors' claims of procedural and substantive violations of the Convention.

5. On 7 December 2022, the Committee, acting through the Working Group on Communications, decided to register the communication and not to submit to the State party a request for interim measures under article 6 of the Optional Protocol and article 7 of its rules of procedure under the Optional Protocol to the Convention on the Rights of the Child establishing a communications procedure.

6. In its observations of 7 June 2023, the State party requested the Committee to declare the communication inadmissible for non-exhaustion of domestic remedies and for being manifestly ill-founded.

7. On 22 January 2024, the authors, who had been returned to Bosnia and Herzegovina with their children, H. J. and A. J., requested the Committee to end the proceedings related to their communication.

8. Meeting on 24 May 2024, the Committee, having considered the authors' request, decided to discontinue consideration of communication No. 204/2022, 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.

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