EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FIFTH SECTION

DECISION

Application no. 12805/19
Ahmad MOHAMAD
against Sweden

The European Court of Human Rights (Fifth Section), sitting on 25 May 2023 as a Committee composed of:

Stéphanie Mourou-Vikström*, President*,
Lado Chanturia,
Mattias Guyomar*, judges*,
and Sophie Piquet, *Acting Deputy Section Registrar,*

Having regard to:

the application (no. 12805/19) against the Kingdom of Sweden lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") on 27 February 2019 by a Syrian national, Mr Ahmad Mohamad, who was born in 1983 and lives in Hudiksvall ("the applicant") who was represented by Mr Youstbi Djuanvat, a lawyer practising in Hudiksvall;

the decision to give notice of the application to the Swedish Government ("the Government"), represented by their Agent, Mrs Helen Lindquist from the Ministry for Foreign Affairs,

the parties' observations;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The application concerns a temporary refusal by the Swedish authorities to grant the applicant's wife family reunion with the applicant who, on 12 October 2016, due to the general situation in Syria at the time, had been granted subsidiary protection in Sweden. He complained under Article 8 of the Convention, read alone and in conjunction with Article 14.

2. On 9 December 2017 his wife, born in 1999, who at the time was residing in Syria, sought to be reunited with the applicant.

3. On 17 January 2018 the Migration Agency rejected her application. It noted that she was not entitled to family reunion with the applicant since he had been granted subsidiary protection in Sweden in accordance with the Act on Temporary Restrictions of the Possibility of Being Granted a Residence Permit in Sweden (*Lagen om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige,* Act no. 2016:752 – "the Temporary Act") after 24 November 2015, and spouses and children of such persons were not entitled to family reunion. On 24 September 2018 this decision was upheld by the Migration Court and on 15 November 2018 it became final when the Migration Court of Appeal refused leave to appeal.

4. Instead, on 22 June 2020 the applicant's wife entered Sweden and requested asylum due to the general situation in Syria. She explained that she had married the applicant on 15 November 2015, when she was 15 years old. She had left Syria in 2018.

5. By decision of 22 July 2020, under section 5 of the Temporary Act, she was granted subsidiary protection in Sweden which was extended for 2 years on 2 December 2021.

6. On the latter date the applicant was granted permanent residence in Sweden.

THE COURT'S ASSESSMENT

7. In respect of the complaint under Article 8 of the Convention, the relevant principles and the Court's assessment of the legislative and policy framework were recently set out in *M.T. and Others v. Sweden*, no. 22105/18, §§ 58-71, 20 October 2022.

8. It will be recalled that the Court sees no reason to question the rationale of imposing a waiting period for family reunion to persons granted subsidiary protection for two years, whereas beyond such duration the insurmountable obstacles to enjoying family life in the country of origin progressively assume more importance in the fair balance assessment (see *M.A. v. Denmark* [GC], no. 6697/18, § 162, 9 July 2021).

9. In the Swedish context, the right to apply for family reunion was restored on 20 July 2019. Accordingly, a three-year suspension period was imposed only for those who applied for family reunion on 20 July 2016. Thereafter, the waiting period was gradually reduced; for those who applied after 20 July 2017 it was two years or less.

10. The applicant's wife applied for family reunion on 9 December 2017. The waiting period for her and the applicant was thus less than two years.

11. In addition, although it is noted that the spouses married in 2015, when the applicant's wife was apparently 15 years old, there is no indication, and it has not been argued either, that she was vulnerable or dependent on the applicant.

12. In these circumstances, the Court is satisfied that an individualised assessment was carried out and that the Swedish authorities struck a fair balance between, on the one hand, the applicant's interest in being reunited with his wife in Sweden and, on the other, the interest of the community as a whole in protecting the economic well-being of the country by regulating immigration and controlling public expenditure.

13. In respect of the complaint under Article 8 read in conjunction with Article 14, the relevant principles were set out in *M.T. and Others v. Sweden*, cited above, §§ 92-94.

14. For the same reasons and conclusions as set out in the said judgment (ibid., §§ 95-118), the Court considers that the present case does not disclose any appearance of a violation of Article 8 read in conjunction with Article 14.

15. It follows that in so far as the matters complained of cannot be considered resolved, the applicant's complaints are manifestly ill-founded and therefore inadmissible, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 15 June 2023.

Sophie Piquet Acting Deputy Registrar	Stéphanie Mourou-Vikström President