

# Protection for disabled persons in Afghanistan

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In 2013, a severely disabled Afghan asylum seeker was returned to Afghanistan from the UK. He had claimed that the lack of adequate social care in Afghanistan for persons with disabilities would be severe enough to constitute inhuman or degrading treatment under Article 3 of the European Convention on Human Rights (ECHR). However, as Afghanistan has a National Disability Action Plan<sup>1</sup> and the applicant has some family in Afghanistan, the Court of the ECHR was not satisfied that a claim of risk of inhuman or degrading treatment could be raised.<sup>2</sup>

In another recent case – *Szilvia Nyusti, Péter Takács and Tamás Fazekas v Hungary*<sup>3</sup> – the applicants had severe visual impairments. They were unable to use the ATMs of their bank in Afghanistan without assistance and the Committee on the Rights of Persons with Disabilities held that lack of accessibility for persons with visual impairments to the bank's ATMs amounted to a failure of the state to comply with its obligations under Article 9 of the Convention on the Rights of Persons with Disabilities. The Committee recommended that Afghanistan create a legislative framework with concrete, enforceable and time-bound benchmarks for monitoring and assessing the gradual modification and adjustment by private financial institutions of previously inaccessible banking services.

A survey conducted by Handicap International in 2005 in Afghanistan indicated that one in five households in Afghanistan included a person with a disability. Years of conflict – including the indiscriminate use of mines<sup>4</sup> – and an inadequate infrastructure have generated high numbers of people with disabilities who struggle to access health care, rehabilitation services, education and employment. In such a context, decision-makers on asylum claims need to specifically address the concerns of disabled asylum seekers from Afghanistan and their prospects if returned. As the Committee notes, even though accessibility can only be implemented gradually, states parties should set definite, fixed time-frames for implementation and allocate adequate resources for the removal of existing barriers. To the extent that this is not happening in Afghanistan, claims of inhuman or degrading treatment may still be convincingly put forward.

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1. <http://tinyurl.com/Afgh-DisabilityActionPlan>
2. *SHH v. UK* <http://tinyurl.com/SHHvUK>
3. <http://tinyurl.com/Nyusti-Takacs-FazekasvHungary>
4. Afghanistan is one of the most mine-contaminated countries in the world.