



International Covenant on Civil and Political Rights

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Human Rights Committee

Decision adopted by the Committee under the Optional Protocol, concerning communication No. 4296/2023*, **

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| <i>Communication submitted by:</i> | K.Q. (represented by counsel, Tomas Fridh) |
| <i>Alleged victim:</i> | The author |
| <i>State Party:</i> | Sweden |
| <i>Date of communication:</i> | 23 December 2022 (initial submission) |
| <i>Document reference:</i> | Decisions taken pursuant to rules 92 and 94 of the Committee's rules of procedure, transmitted to the State Party on 26 January 2023 (not issued in document form) |
| <i>Date of adoption of decision:</i> | 17 July 2025 |
| <i>Subject matter:</i> | Deportation to Pakistan of an Ahmadi Muslim with an alleged risk of ill-treatment |
| <i>Procedural issue:</i> | Substantiation of claims |
| <i>Substantive issues:</i> | Cruel, inhuman or degrading treatment or punishment; freedom of thought, conscience or religion; non-refoulement; refugee status; torture |
| <i>Articles of the Covenant:</i> | 7 and 18 |
| <i>Article of the Optional Protocol:</i> | 2 |

1.1 The author of the communication is K.Q., a national of Pakistan born in 1972. He claims that by deporting him to Pakistan, the State Party would violate his rights under articles 7 and 18 of the Covenant. The Optional Protocol entered into force for Sweden on 23 March 1976. The author is represented by counsel.

1.2 On 26 January 2023, pursuant to rule 94 of its rules of procedure, the Committee, acting through its Special Rapporteurs on new communications and interim measures, requested the State Party to refrain from deporting the author to Pakistan while his case was under consideration by the Committee. The State Party suspended the author's deportation and the author remains in Sweden.

* Adopted by the Committee at its 144th session (23 June–17 July 2025).

** The following members of the Committee participated in the examination of the present communication: Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Carlos Ramón Fernández Liesa, Laurence R. Helfer, Konstantin Korkelia, Dalia Leinarte, Bacre Waly Ndiaye, Hernán Quezada Cabrera, Akmal Saidov, Ivan Šimonović, Soh Changrok, Teraya Koji, Hélène Tigroudja and Imeru Tamerat Yigezu.



Facts as submitted by the author

2.1 The author belongs to the Ahmadi (Ahmadiyya) Muslim faith and was born in Karachi. In 1984, a mob surrounded an Ahmadi mosque where the author and his father were present and threw rocks through the window. The author never returned to that mosque out of fear.

2.2 The author worked with some of his relatives in a store. They were all Ahmadi Muslims. Near the store was a mosque affiliated with an organization that aimed to murder or expel all Ahmadi Muslims from Pakistan. The members of that organization would often visit the store where the author worked and would threaten or abuse him and his relatives. The author and his relatives would also receive anonymous phone calls in which the callers threatened and taunted them. On 15 September 2012, when the author and one of his relatives left the store to go home on their respective motorcycles, the relative was shot in the chest by an unknown person. The author believes that he was also targeted in the attack, although he managed to escape. He and his relative received no assistance from the local police.

2.3 For several years, the author was harassed by co-workers who did not approve of Ahmadi Islam. In August 2018, the author was attacked by two of his co-workers, one of whom ran him over with a forklift. The author was injured but did not report the incident to the police because his co-workers threatened him and because he believed that the police would not investigate since he was an Ahmadi Muslim. A few months later, the author quit his job.

2.4 On 5 October 2019, the author's wife was granted a student temporary residence permit in Sweden. On the same date, the author was granted a temporary residence permit (valid until 5 October 2020), based on family ties to his wife. On the same date that the permits were granted, the author and their two children arrived in Sweden. While in Sweden, the author actively worshipped at and participated in a local Ahmadi assembly.

Asylum procedure

2.5 On 21 February 2020, the author and his family applied for asylum in Sweden. On 12 November 2020, the Migration Agency rejected the author's asylum application on the basis that the author's claims regarding the attacks against him were not credible.

2.6 On 22 July 2021, the Migration Court rejected the author's appeal against the decision of the Migration Agency.

2.7 On 14 September 2021, the Migration Court of Appeals rejected the author's request for leave to appeal against the decision of the Migration Court.

First application for reconsideration

2.8 On 18 December 2021, the author applied to the Migration Agency for reconsideration of its asylum decision, based on new circumstances. He provided documentation to indicate that the situation for Ahmadi Muslims in Pakistan had worsened and that, in the summer of 2021, one of the former co-workers who had harassed him in his workplace had filed a police report falsely accusing the author of blasphemy, which is criminalized in Pakistan.

2.9 On 7 March 2022, the Migration Agency rejected the application for reconsideration. On 6 May 2022, the Migration Court rejected the author's related appeal. On 4 July 2022, the Migration Court of Appeals denied the author's request for leave to appeal the latter decision.

Second application for reconsideration

2.10 On 4 October 2022, the author was taken into custody by the Swedish police for the purpose of expulsion. On 7 October 2022, he filed a second application for reconsideration with the Migration Agency, based on new circumstances, alleging that he had recently been charged with blasphemy in Pakistan. He submitted a police report and two summonses from a local court to support that allegation.

2.11 Thereafter, the Migration Court upheld the decision of the Migration Agency on the second application. Subsequently, the Migration Court of Appeals rejected the author's request for leave to appeal the decision of the Migration Court.

Third application for reconsideration

2.12 On 15 November 2022, the author filed a third application for reconsideration with the Migration Agency, based on new circumstances. The Agency rejected the application and its decision was upheld on 1 December 2022 by the Migration Court. On the same date, the Migration Court of Appeals denied his request for leave to appeal.

2.13 The author submits that he has exhausted domestic remedies and has not submitted the same matter to another international body for examination.

Complaint

3.1 The author submits that, by deporting him to Pakistan, the State Party would violate his rights under article 7 of the Covenant. He would face a real, personal and foreseeable risk of being subjected to torture or ill-treatment in Pakistan, owing to his religious beliefs and practice as an Ahmadi Muslim. In Sweden, the author has become more active in practising his faith than he was in Pakistan¹ and the situation for Ahmadi Muslims in Pakistan is worsening.²

3.2 In violation of article 18 of the Covenant, the author would face a charge of blasphemy and a three-year prison sentence in Pakistan on account of his Ahmadi faith. The State Party's migration authorities did not respect the author's rights under that provision and summarily dismissed his claims without examining them properly.³ While the author had an oral hearing before the Migration Agency, the Migration Court denied his request for an oral hearing.

3.3 The Committee has stated that, when assessing the need for international protection, all risk-enhancing circumstances must be considered.⁴ In the author's case, the migration authorities assessed the risk-related circumstances separately instead of cumulatively.

State Party's observations on admissibility and the merits

4.1 In a submission, dated 12 July 2023, the State Party maintains that the author filed four applications for reconsideration to the Migration Agency. On 7 March, 7 October, 11 October and 16 November 2022, the Migration Agency rejected the applications and, subsequently, the Migration Court rejected the related appeals.

4.2 The author's claim under article 18 of the Covenant is inadmissible *ratione materiae* because it does not engage the State Party's responsibility under that provision. Insofar as any alleged consequence in Pakistan of the author's religion attains the level of treatment prohibited by article 7 of the Covenant, it must be addressed under that provision.⁵

4.3 In addition, the communication as a whole is inadmissible because it is manifestly unfounded. The burden of meeting the high threshold of proof rests with an author,⁶ who must establish that there is a real risk of treatment contrary to article 7 of the Covenant as a necessary and foreseeable consequence of an expulsion. Considerable weight should be given to the assessment of the State Party's authorities. The State Party does not underestimate the concerns that may legitimately be expressed regarding the general human rights situation in

¹ The author provided two letters in which the leader of a local Ahmadi assembly in Sweden stated that the author was an active member of the congregation.

² The author provided copies of reports by a non-governmental organization, the International Human Rights Committee (dated 5 March, 5 June, 1 August, 6 August, 12 August, 24 August, 29 September and 4 October 2022), in which threats and violence against Ahmadi Muslims in Pakistan are described.

³ The author provided a copy of two summonses to report to a court in Pakistan issued on 9 July 2021 and 24 August 2021. He also provided a copy of a warrant dated 15 September 2021, in which a magistrate directed the police to arrest the author, and a copy of the report filed against the author for the crime of blasphemy.

⁴ See *Q.A. v. Sweden* (CCPR/C/127/D/3070/2017).

⁵ European Court of Human Rights, *Razaghi v. Sweden*, Application No. 64599/01, decision of admissibility, 11 March 2003.

⁶ See, for example, *X v. Norway* (CCPR/C/115/D/2474/2014).

Pakistan, including the situation for Ahmadis.⁷ The migration authorities acknowledged those concerns in their decisions, having examined and cited various human rights reports. However, the general human rights situation for Ahmadis does not in and of itself suffice to establish that the author's expulsion would violate article 7 of the Covenant.⁸ As the State Party's migration authorities determined, the author has failed to substantiate that he would personally face a real risk of being subjected to treatment in violation of article 7 of the Covenant in Pakistan.

4.4 Both the Migration Agency and the Migration Court thoroughly evaluated the author's case. On 25 February 2020, the Migration Agency held an introductory asylum interview with the author. The minutes from those meetings were communicated to the author's public counsel. On 18 June 2020, an extensive asylum interview was held with the author, in the presence of his public counsel. It lasted for more than three hours. The minutes from the interview were transmitted to the author's counsel on the same day. The interviews were conducted in the presence of an interpreter, whom the author confirmed to have understood well. Through his public counsel, the author has been invited to scrutinize and submit written observations on the minutes from the interviews and to make written submissions and appeals.

4.5 Thus, the author had several opportunities to explain the relevant facts and circumstances in support of his claims and to argue his case, orally and in writing before the Migration Agency and in writing before the Migration Court. The authorities made a well-informed, reasonable and transparent assessment of the author's claim for protection. Although the author disagrees with the conclusion that they reached, there is no reason to find that their rulings were inadequate or that the outcome of the domestic proceedings was in any way arbitrary or amounted to a denial of justice.

4.6 The communication is also without merit. The migration authorities acknowledged the difficult situation for Ahmadi Muslims in Pakistan but concluded that the author would not face a specific and personal risk of persecution upon return. They found that the harassment endured by the author from private individuals was not so severe that it constituted grounds for protection. The alleged threat had emerged in 2004 and the author and his family had continued living in Pakistan until October 2019 without having been subjected to ill-treatment. Moreover, the author and his family stated that they had travelled to Sweden because of health issues, had left Pakistan lawfully using their own passports and had stayed in Sweden for five months before applying for asylum.

4.7 When rejecting the author's application for re-examination, the Migration Court deemed that the documents regarding the alleged blasphemy case against the author were of such a simple nature that they could have easily been forged. The Migration Court also considered that both the documents and the author's blasphemy-related allegations contained several contradictory elements. The Court concluded that the evidence submitted did not suffice to render his claims probable.

4.8 While the author claims that the State Party's authorities failed to examine the alleged blasphemy-related charges and the resulting prison sentence, they assessed all of his alleged grounds for protection and the supporting documentation submitted. Although the author claims that, while in Sweden, he has participated more actively in the Ahmadi religion than when he was in Pakistan, the migration authorities considered that it was not probable that his *sur place* activities were known in Pakistan or had given rise to an individualized risk.

Author's comments on the State Party's observations on admissibility and the merits

5.1 In his comments, dated 26 September 2023, the author reiterates his claims and asserts, regarding article 18 of the Covenant, that all States Parties must uphold the right to religious

⁷ For example, Human Rights Watch, "Pakistan", in *World Report 2023: Events of 2022 – Pakistan* (New York, 2023); European Asylum Support Office, *Country of Origin Information Report: Pakistan – Security Situation* (2021); United Kingdom of Great Britain and Northern Ireland, Home Office, "Country policy and information note – Pakistan: Ahmadis", version 5.0, September 2021; United States of America, Department of State, *Pakistan 2021 International Religious Freedom Report*.

⁸ General comment No. 36 (2018), para. 30.

freedom, regardless of whether violations take place domestically or extraterritorially. The author notes that he has shown it to be credible that he would openly practise his faith in Pakistan, as he has chosen to do in Sweden. If the facts that he has presented are valid, he faces a foreseeable, real and personal risk of torture or ill-treatment in Pakistan.

5.2 The domestic assessments constitute an arbitrary denial of justice. The risk factors concerning the author (his Ahmadi Muslim faith, the previous attacks against him and his family, active membership in his religious assembly and blasphemy charges against him) were not assessed in a cumulative manner.⁹

5.3 The fact that the author obtained a residence permit in Sweden before leaving Pakistan does not preclude him from applying for asylum, nor does it invalidate his claims. He had no other means of applying for asylum in a safe country. The State Party's dismissive stance and the superficial assessment of his claims by the migration authorities are not acceptable.

5.4 The author experienced increasingly severe attacks in Pakistan. By 2019, he had no choice but to leave the country. He and his family had been planning and organizing their escape for several years.

5.5 Ahmadi Muslims in Pakistan cannot openly refer to themselves as Muslim or practise their faith openly without violating criminal law.¹⁰ The authorities in Pakistan cannot and will not protect Ahmadi Muslims. Crimes against them are generally not investigated or punished. They cannot refer to their leader as a prophet, openly carry the Qur'an, celebrate religious festivities or engage in any other Muslim customs or practices. They face increasing attacks in Pakistan.¹¹ The author has made it clear that his personal Ahmadi faith includes open and collective religious practices. Out of fear, he was not able to act in accordance with his faith in Pakistan.

5.6 Even if the author were to hide his faith in Pakistan, he would still face ill-treatment. He was born into an Ahmadi Muslim family, he was previously subjected to attacks and he is currently wanted by the police in Pakistan because of his faith. As remedies, he requests to remain in Sweden and receive declaratory relief and compensation in the amount of 25,000 kroner for legal fees.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

6.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 In accordance with article 5 (2) (b) of the Optional Protocol, the Committee shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies. Noting that it is uncontested that the author has exhausted domestic remedies after several unsuccessful applications and final appeals concerning his claim for protection in Sweden, the Committee considers that article 5 (2) (b) of the Optional Protocol does not constitute an obstacle to its examination of the communication.

6.4 Regarding article 7 of the Covenant, the Committee notes the State Party's argument that the communication is inadmissible because it is manifestly unfounded. The Committee recalls its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States Parties to the Covenant, in which it refers to the obligation of States Parties not to extradite, deport, expel or otherwise remove a person from their territory, where there

⁹ *O.R. v. Sweden* (CAT/C/77/D/1016/2020).

¹⁰ United Kingdom, Home Office, "Country policy and information note – Pakistan: Ahmadis".

¹¹ See, for example, Ahmadiyya Muslim Foreign Missions, Human Rights Section, "Persecution of Ahmadis in Pakistan: Annual Report 2022".

are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant (para. 12). The risk must be personal and there is a high threshold for providing substantial grounds to establish the existence of a real risk of irreparable harm. In making such an assessment, all relevant facts and circumstances must be considered, including the general human rights situation in the country to which the author faces removal.¹² Considerable weight should be given to the assessment conducted by the State Party, and it is generally for the organs of States Parties to the Covenant to review or evaluate the facts and evidence in order to determine whether such a risk exists, unless it is found that the evaluation was clearly arbitrary or erroneous or amounted to a denial of justice.¹³

6.5 The Committee notes the author's assertion that his deportation to Pakistan would expose him to a real and personal risk of torture or ill-treatment contrary to article 7 of the Covenant. The Committee takes note of his allegations regarding the cumulative effect of various risk factors (see paras. 5.2, 5.5 and 5.6 above).

6.6 Regarding the formal aspects of the domestic proceedings, the Committee observes that the author was represented by a counsel appointed by the State Party and was interviewed twice by the Migration Agency, with interpretation services. He received reasoned decisions on his asylum application and appeal. He also filed several successive applications for reconsideration with the Migration Agency, including after his arrest in Sweden for the purpose of expulsion, and received reasoned decisions on those applications.

6.7 The Committee notes that, during the asylum procedure, when evaluating the risks alleged by the author, the Migration Agency and Migration Court found that the incidents experienced by the author were not of a nature or intensity as to indicate a personal risk that, if he returned to Pakistan, he would face treatment constituting a ground for protection. His statements also contained inconsistencies and gaps, including with respect to the events that had prompted his departure from Pakistan. The Migration Agency did not believe that the author had been targeted in 2012, when he alleged that his relative had been shot. It noted in its asylum decision that the author had not practised his religion intensively either in Pakistan or Sweden and that the record included a statement that he and his family had always been able to practise their Ahmadi faith in Pakistan.

6.8 The Committee notes the author's assertion that the documents he provided in his successive applications for reconsideration (concerning the blasphemy charges, trial, conviction and sentence against him) were not duly considered. The Committee notes that, after examining the documents provided, the migration authorities considered them to be unreliable given their simplistic nature and partial contradictions and observed that the author had provided contradictory information as to when he had become aware of the police report.

6.9 The Committee takes note of the author's claim that he has become more active in Sweden (*sur place*) in the practice of his Ahmadi faith. However, because of the issues noted by the Migration Agency with respect to credibility and his individualized risk, the Committee considers that, while the author disagrees with the conclusions of the State Party's authorities, he has not sufficiently substantiated that their assessment of the facts and claims was clearly arbitrary or erroneous or amounted to a denial of justice or that he would face a personal and real risk of treatment contrary to article 7 of the Covenant if he were deported to Pakistan. Thus, the Committee declares that claim inadmissible under article 2 of the Optional Protocol.

6.10 Regarding article 18 of the Covenant, the Committee recalls its jurisprudence to the effect that the obligation of non-refoulement does not have extraterritorial application unless the alleged risk/violation would represent irreparable harm, such as that contemplated in articles 6 or 7 of the Covenant, in the country to which removal is to be effected.¹⁴ However,

¹² See, for example, *Z v. Denmark* (CCPR/C/137/D/2795/2016), para. 6.5.

¹³ See, for example, *R.M. and Q.M. v. Sweden* (CCPR/C/141/D/4062/2021-CCPR/C/141/D/4191/2022), para. 7.4; *Teitiota v. New Zealand* (CCPR/C/127/D/2728/2016), para. 9.3.

¹⁴ *M.N. v. Denmark* (CCPR/C/133/D/2458/2014), para. 8.8; see also *Ch.H.O. v. Canada* (CCPR/C/118/D/2195/2012), para. 9.5; *I.K. v. Denmark* (CCPR/C/125/D/2373/2014), para. 8.5; and *C.L. and Z.L. v. Denmark* (CCPR/C/122/D/2753/2016), para. 7.4.

for the reasons stated in paragraphs 6.7–6.9 above, the Committee does not consider that the author has sufficiently substantiated his claims in relation to a risk of irreparable harm within the meaning of article 7 of the Covenant, and thus declares his claim under article 18 of the Covenant inadmissible under article 2 of the Optional Protocol.

7. The Committee therefore decides:

- (a) That the communication is inadmissible under article 2 of the Optional Protocol;
 - (b) That the present decision shall be transmitted to the State Party and to the author.
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