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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. 4162/2022*, **

Communication submitted by:	Z.B. (represented by counsel, Anna Massarsch)
Alleged victim:	The author
State Party:	Sweden
Date of communication:	17 May 2022 (initial submission)
Document references:	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State Party on 10 November 2022 (not issued in document form)
Date of adoption of decision:	17 July 2025
Subject matter:	Denial of application for a residence permit on the ground of national security
Procedural issues:	Same matter – another procedure of international investigation or settlement; substantiation of claims; victim status
Substantive issues:	Aliens' rights; national security
Article of the Covenant:	13
Articles of the Optional Protocol:	1, 2 and 5 (2) (a)

1. The author of the communication is Z.B., a national of Belgium born in 1990. She alleges that the State Party has violated her rights under article 13 of the Covenant. The Optional Protocol entered into force for Sweden on 23 March 1976. The author is represented by counsel.

Factual background

2.1 On 25 July 2015, the author married a national of Sweden. On 15 August 2015, she moved to Sweden.[1]

* 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 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.

[1] This date was provided by the author in her application of 2017 for a new residence permit in Sweden.

2.2 On 16 September 2015, the Migration Agency granted the author's application for a residence permit based on her marriage. Because the marriage was of recent date, the permit was valid for two years.

2.3 In March 2016, the author and her husband had a child. On 18 August 2017, the author applied for a new residence permit in Sweden. On 16 September 2017, her extant residence permit expired. In July 2019, the author and her husband had a second child. Their two children are nationals of Sweden.

2.4 On 3 December 2019, the Security Service in Sweden interviewed the author in the context of her application for a new residence permit. On 23 January 2020, the Security Service submitted a written opinion to the Migration Agency, in which it recommended denying the author's application. The recommendation was based on information received by the Security Service that the author had conducted terror-related activities abroad and could be connected to an individual who was monitored as part of counter-terrorism operations. In its written opinion, the Security Service noted that, because of that information, it had conducted an interview with the author and that she had lacked credibility on certain points. For example, when asked her opinion on the use of violence as a means of achieving political goals, the author stated that she did not know. Thereafter, her case was treated as a security case under chapter 1, section 7, of the Aliens Act of 2005. According to that provision, a resident permit shall not be granted to a person with long-term residence status in another European Union State if that person constitutes a threat to public order or security.

2.5 A public counsel was then appointed to the author. Counsel and the author were given an opportunity to review the opinion of the Security Service. In response, on 8 May 2020, the author submitted through her counsel a written statement to the Migration Agency. The author raised the following arguments. Although she was on parental leave, she was otherwise employed in Sweden and was able to support herself financially. She and her husband owned an apartment in Sweden. She had a strong connection to Sweden through her family, work and network. She had a stronger connection to Sweden than to any other country. Her removal would cause irreparable damage to her young child. The interview with the Security Service had been conducted without interpretation. The author had been unable to focus during the interview because of the presence of her 6-month-old child. There was no concrete element indicating that the author would conduct criminal activity.

2.6 On 15 June 2020, the Migration Agency rejected the author's application for a new residence permit on the basis of various provisions of domestic law. In its decision, the Migration Agency also referred to various regional and international human rights instruments. In assessing whether there were grounds to deny the author a residence permit following the recommendation of the Security Service, the Migration Agency noted the following considerations. Because the author had not lived in Sweden for five full years as required by domestic law, she did not have a right of permanent residence, as she had claimed. The fact of the author's marriage had been accepted and she had not been convicted of any crime in Sweden. However, under chapter 1, section 7, of the Aliens Act, a residence permit could be denied if, inter alia, an alien constituted a threat to the public order and security. The Security Service was tasked with preventing persons who were or could become a security threat to Sweden from residing or establishing themselves in the country. Although the author had raised procedural concerns with respect to the conduct of the interview with the Security Service (namely, that she had been unable to focus because of the presence of her child and that no interpretation had been provided), the determination of the Security Service had not been based solely on her oral statements. While the Migration Agency had taken into account her statements, the Security Service had submitted sufficient information in the case to conclude that the author represented the type of threat to public policy and security referred to in the relevant provision of the Aliens Act. No specific circumstances called into doubt the assessment of the Security Service or the information on which it had been based. Although the author had claimed that Sweden would subject her and her children to extreme distress and would thereby violate its international commitments by removing her, the jurisprudence of the European Court of Human Rights indicated that member States of the European Union had a margin of appreciation with respect to national needs to determine what was required to maintain public order and safety. According to the jurisprudence of the Court, a threat to public order or safety required a real and sufficiently serious threat affecting

one of society's fundamental interests, beyond the disturbance that every violation of the law entailed. A threat to public order could exist in cases where a foreigner belonged to an association that supported international terrorism, supported such an association or had extremist sympathies. The concept of general order and security did not focus exclusively on the actions of the individual in question, but also on the actions of the organization in question. The author had been given an opportunity to contest the findings of the Security Service and had done so in a written statement. While the author criticized the absence of a justification by the Security Service, the Security Service had presented the reasons for its position.

2.7 In its decision, the Migration Agency also evaluated the author's argument that its decision to deny the author a residence permit would violate her right to family life and private life under the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). The Migration Agency stated that its decision had to be proportionate when balancing security concerns with the author's rights. It did not question the author's family relationships but considered that the right to family life did not require that affected individuals be able to choose the country in which they wished to exercise that right. The Migration Agency noted that the right to private and family life could be restricted if the restrictions were based on the law and were necessary in a democratic society for reasons relating to, for example, State security, public security or the prevention of disorder or crime. The Migration Agency considered that the need to protect national security outweighed the author's right to maintain her family life in Sweden, as the family could reside together in Belgium.

2.8 In its decision, the Migration Agency also examined the author's argument under article 3 of the Convention on the Rights of the Child, in relation to her children's best interests. The Migration Agency considered that the possibility for the author's family to reside together in Belgium (taking into account country conditions) meant that the author's removal would not violate the children's right to have their best interests considered. Moreover, the Migration Agency noted that the author had been living in Sweden for a relatively short time (less than five years), that she did not have any health problems and that the decision to remove her would not affect the rights of her husband or her children to remain in Sweden.

2.9 The Migration Agency also assessed whether there were exceptionally distressing circumstances implying that the author's removal would violate one of the treaty obligations of Sweden. The Migration Agency noted that the application of chapter 5, section 6, of the Aliens Act (concerning exceptionally distressing circumstances) was discretionary, that the author had not resided in Sweden for a long period of time, that she did not have any serious health problems and that, even if her removal were deemed to constitute an interference with her private and family life, such interference would not be disproportionate to the aim of protecting national security. The Migration Agency concluded that it had not been demonstrated that exceptionally distressing circumstances prevented the removal of the author. The Migration Agency decided that the author would be removed to Belgium or any other country willing to receive her and prohibited her re-entry for a period of 10 years, in accordance with chapter 8 of the Aliens Act. The Migration Agency also reiterated that certain information in the decision was covered by State secrecy.

2.10 Through her counsel, the author appealed against the decision of the Migration Agency to the Migration Court. She argued that her application for a residence permit should be granted on the basis of her employment, long-term residence in Sweden and family ties. She noted that her son had epilepsy and was on a waiting list to be examined to see whether he had attention deficit hyperactivity disorder and autism. The author maintained that it would be important for both parents to be with their son during that examination. The author also asserted that it would be difficult for her family to move to Belgium, considering that the children had roots in Sweden and that her husband did not speak French or Flemish.

2.11 After holding an oral hearing, the Migration Court rejected the appeal. In a reasoned decision, the Court noted the author's argument that the interview with the Security Service had been conducted without interpretation. The Court noted the statement by the Security Service that it had contacted the author before the interview and had asked her whether she would need interpretation during the interview. She had replied that she would not need interpretation. The Security Service had also stated that the interview transcript had not

indicated any difficulties in comprehension between the interviewer and the author. The Court also noted the author's statements that she had never been convicted of any crime, was not politically active and, to her knowledge, had no politically active family members. The Court considered that the author's assertions had not called into question the assessment by the Security Service. The Court evaluated the author's claim that it would be difficult for her and her husband to find work and housing in Belgium, and that their son had attention deficit hyperactivity disorder, and considered that the circumstances alleged were not distressing enough to alter the outcome decided upon by the Migration Agency.

2.12 The author then filed a request for leave to appeal against the decision of the Migration Court to the Migration Court of Appeal, which rejected the request on 26 January 2021. Accordingly, on that date, the decision of the Migration Agency entered into force.

2.13 On 15 February 2021, the author filed, through her counsel, another application for a residence permit, on the ground that there were impediments to her removal. She asserted that she suffered from depression and suicidal ideation; that the fear of terrorism in Sweden was a threat to democracy; and that one of her children, who had special needs, was about to develop autism and that it was important for both parents to be with him. On 24 February 2021, the Migration Agency denied her application in a reasoned decision. In examining whether there were any medical circumstances barring the removal of the author, the Migration Agency took note of the medical documentation that the author had provided. According to that documentation, the author had had depression and trouble sleeping for about two years. The Migration Agency also noted the author's assertion that she had lost her appetite. The Migration Agency considered that that information was not new and had already been reviewed. It noted that to demonstrate the existence of an impediment to the removal of an alien, the alien had to be so seriously ill that it would not be possible to carry out the removal order. The Migration Agency stated that the author's health problems were not so serious as to render her removal impracticable. It further stated that, in cases where an applicant had suicidal tendencies, it was necessary to assess whether self-destructive actions or statements to carry out such actions resulted from severe mental illness that had been proven in a psychiatric investigation or were rather expressions of disappointment or desperation after rejection. The Migration Agency did not consider that the author's medical documentation indicated that she had a severe, non-temporary mental illness. It also considered that the author had not shown that she could not obtain adequate medical care in Belgium. The Migration Agency concluded that the author's mental illness was not of such a serious nature as to render her removal unreasonable. With respect to her claims relating to her family life, the Migration Agency noted that her husband and children could reside with her in Belgium and that the family could therefore remain together.

2.14 In April 2021, in accordance with the decision of the Migration Agency, the author left Sweden for Belgium with her younger child. Her husband and older child joined her in Belgium on an unspecified date.

2.15 The author states that she lodged an application concerning the same matter to the European Court of Human Rights. She claimed a violation of her right as an alien to not be expelled, and violations of her rights to a fair trial and to family life. On 19 March 2021, the Court informed the author that it had decided to deny her request for interim measures to suspend her removal to Belgium. On 24 June 2021, the Court, sitting in a single-judge formation, declared that the author's application was inadmissible under article 35 (3) (a) of the European Convention on Human Rights (application No. 14669/21). Specifically, the Court found that the author's claims relating to family life were manifestly ill-founded as they did not disclose any appearance of a violation of the rights and freedoms set forth under the Convention or the Protocols thereto. The Court also found that the author's claims relating to the right of lawful resident aliens against expulsion and the fairness of the expulsion proceedings were incompatible *ratione materiae* with the provisions of the Convention.

Complaint

3. The author submits that the State Party violated her rights under article 13 of the Covenant when the Migration Agency denied her application for renewal of her residence permit to remain in Sweden. Although she is not fluent in Swedish, she was not provided with interpretation services during the meeting with the Security Service and her public legal

counsel had not yet been appointed. Her young child was present during the interview and she could not focus. Owing to State secrecy, she was not informed of the specific acts of which she was accused and did not have access to documents in her file, in violation of the principle of equality of arms. As a result of her removal from Sweden, the author's employment was disrupted, her reputation was tarnished and she was separated from her family. She has never been politically active. The domestic review proceedings were conducted in a merely formalistic manner. The author also alleges that her children would suffer irreparable harm if she were separated from them.

State Party's observations on admissibility and the merits

4.1 In its observations, dated 28 April 2023, the State Party considers that the communication is inadmissible because it is manifestly ill-founded. Article 13 of the Covenant directly regulates only the procedure and not the substantive grounds for expulsion. Its purpose is clearly to prevent arbitrary expulsions.[2] There is no indication of any procedural deficiencies in the domestic proceedings or arbitrariness in the decisions of the domestic authorities.

4.2 The author was represented by a public counsel. The counsel requested by her was appointed when the Security Service submitted its opinion to the Migration Agency. Through her counsel, the author was invited to submit written observations on the opinion of the Security Service and to make written submissions and appeals. The author had ample opportunity to explain the facts in support of her claims and to argue her case in writing before the Migration Agency.

4.3 During the appeal proceedings, the Migration Court held an oral hearing in the presence of the author's counsel, an interpreter and representatives from the Migration Agency and Security Service. During the proceedings before the Court, a new public counsel was appointed to the author upon her request.

4.4 The author's concerns regarding her interview with the Security Service were reviewed by the Migration Court. As the Court noted in its decision, the author had refused interpretation services before the interview began. The minutes from the interview do not indicate any comprehension difficulties between the author and the interviewer. During the interview, the issue of expulsion was not considered. Thus, a public counsel had not yet been appointed to the author by the Migration Agency. However, she was represented by a public counsel when the Security Service submitted its opinion to the Migration Agency. The author had access to the same information as the Migration Agency when it assessed her application for renewal of her residence permit.

4.5 The author was also invited to submit comments on the opinion of the Security Service, and the opinion was reviewed by both the Migration Agency and the Migration Court. The State Party emphasizes that the assessment of whether an alien constitutes a security threat to Sweden rests primarily with the Security Service. In its written opinion, the Security Service stated the grounds for its assessment that there were security reasons for denying the author's application for a residence permit, in accordance with chapter 1, section 7, of the Aliens Act.

4.6 Article 13 of the Covenant permits abrogation of the review requirements where reasons of national security compel non-compliance with those requirements, although expulsions on the ground of national security must still comply with the State Party's laws. The Committee has stated that it is not for the Committee to test a sovereign State's evaluation of an alien's security rating.[3] The proceedings were consistent with article 13 of the Covenant. They did not amount to a denial of justice.

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

5.1 In her comments, dated 4 July 2023, the author reiterates her previous claims and submits that she had no reason to expect the rejection of her application. She did not realize

[2] General comment No. 15 (1986) on the position of aliens under the Covenant, paras. 9 and 10.

[3] *V.M.R.B. v. Canada*, communication No. 236/1987, para. 6.3.

that her interview with the Security Service could result in the denial of her application. Had she understood that she would not have brought her child with her.

5.2 The author misunderstood the Security Service case officer and vice versa on several points. The author's counsel later made comments to that effect on the minutes of the interview with the Security Service and submitted it to the Migration Agency.

5.3 The absence of counsel for the author during the interview with the Security Service was a serious procedural deficiency. The provision of public counsel to the author at a later stage did not repair that deficiency because the damage had already been done.

5.4 The author does not know why she is considered a threat to security. She could not respond to the allegations. It is impossible for an individual to prevail in a case against the Security Service. If the migration authorities did not receive detailed information from the Security Service, they did not perform an adequate assessment or review of the information.

5.5 During the oral hearing before the Migration Court, the author was allowed to defend herself but was very frightened, in tears and in a poor state of mental health. She did not understand how to defend herself.

5.6 After her removal from Sweden, the author and her husband divorced. The author resides in Belgium and her ex-husband resides in Germany, as he was unable to find work in Belgium. The expulsion proceedings and accusations against the author made her stressed and unhappy. As remedies, she requests that the State Party's Security Service remove her from its list of terrorists. She also requests financial compensation for mental harm, moral damage, lost opportunities, legal costs and psychological services.

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 With respect to the author's claim that her children would suffer irreparable harm if she were separated from them, the Committee notes that the communication was not submitted on behalf of the author's children. Accordingly, the Committee considers that the author's children do not have victim status within the meaning of article 1 of the Optional Protocol and that the claim relating to their rights is therefore inadmissible.

6.3 The Committee also notes the State Party's argument that the communication is inadmissible because it is unsubstantiated. The Committee observes that, while the author alleges that the proceedings involving her application for renewal of her residence permit were procedurally unfair, she had the opportunity to contest the denial of her application and was not denied a review process on the basis of compelling reasons of national security.[4] Moreover, while the Committee has consistently held in its jurisprudence that article 13 of the Covenant does not confer the right to appeal or the right to a court hearing,[5] the author had access to reviews of the initial decision of the Migration Agency by two appeal bodies (the Migration Court and the Migration Court of Appeal). After the interview with Security Services, the author was assigned public counsel before the Migration Agency and was later assigned a different public counsel upon her request. The Migration Court granted her request for an oral hearing. While the author claims that she could not defend herself during the oral appeal hearing because of emotional distress, she also states that she was given the opportunity to defend herself and she was represented by the public counsel of her choosing.

6.4 While the author maintains that she was not informed of the specific acts of which she was accused, the State Party maintains that certain related information is covered by State secrecy and that it allowed the author and her counsel to read the report of the Security

[4] See general comment No. 15 (1986), para. 10.

[5] See, for example, *M.P. et al. v. Denmark* (CCPR/C/121/D/2643/2015), para. 7.4; and *F.M. v. Denmark* (CCPR/C/115/D/2284/2013).

Service in which the Service recommended the denial of her application on the ground that it had received information that the author had conducted terror-related activities abroad and could be connected to an individual who was monitored by counter-terrorism operations. The decision of the Security Service to recommend the denial of the author's application was also prompted by her responses to questions during an interview. The Committee recalls that, as regards article 13 of the Covenant, it is not for the Committee to test a sovereign State's evaluation of an alien's security rating.[6] In addition, in assessing claims under article 13 of the Covenant, the Committee may not review the substantive grounds for expulsion.[7]

6.5 The Committee considers that the Migration Agency and Migration Court duly considered and responded to each of the author's arguments. The Committee notes the author's assertion that no interpretation was provided during her interview with the Security Service, to her detriment. The author's argument regarding interpretation was considered by the domestic authorities and, as noted by the Migration Court, the Security Service had asked her before the interview whether she would need interpretation and she had declined those services. While the author maintains that she could not focus during the interview because her daughter was present, the Committee observes that she has not asserted or demonstrated that she requested interpretation during the interview or that her inability to focus was attributable to the State Party. The Migration Court observed that the Security Service stated that the interview transcript did not indicate any difficulties in understanding between the author and the investigator. While the author maintains in her comments that her counsel had later sent a response to the interview transcript, she did not provide any details on any alleged misunderstanding. She has not demonstrated that she raised any related objection during the appeal process. The Committee considers that the State Party provided the author with an opportunity to submit reasons concerning her application and to have those reasons reviewed by competent authorities.[8]

6.6 In view of the foregoing, the Committee considers that the author was afforded procedural opportunities to submit reasons and to have those reasons assessed on an individualized basis by the State Party's decision makers.[9] Accordingly, the Committee considers that the author has not sufficiently substantiated her argument that the State Party violated her rights under article 13 of the Covenant by denying her application for a renewed residence permit. The Committee thus declares the communication inadmissible under article 2 of the Optional Protocol.

6.7 In the light of its findings, the Committee deems that it is not necessary to examine other grounds of inadmissibility.

7. The Committee therefore decides:

(a) That the communication is inadmissible under articles 1 and 2 of the Optional Protocol;

(b) That the present decision shall be transmitted to the State Party and to the author.

[6] *V.M.R.B. v. Canada*, para. 6.3.

[7] General comment No. 15 (1986), para. 10.

[8] See, for example, *Karker v. France* (CCPR/C/70/D/833/1998), para. 9.3.

[9] See, for example, *Y v. Denmark* (CCPR/C/136/D/2774/2016), para. 6.4; *S.A.H. v. Denmark* (CCPR/C/121/D/2419/2014), paras. 10.4–10.6; *B.D.K. v. Canada* (CCPR/C/125/D/3041/2017), para. 6.6; and *M.M. v. Denmark* (CCPR/C/125/D/2345/2014), para. 7.6.