



# 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. 4098/2022\*, \*\*

<i>Communication submitted by:</i>	K.C. (not represented by counsel)
<i>Alleged victim:</i>	The author
<i>State Party:</i>	Sweden
<i>Date of communication:</i>	8 February 2022 (initial submission)
<i>Document references:</i>	Decisions taken pursuant to rules 92 and 94 of the Committee's rules of procedure, transmitted to the State Party on 10 February 2022 (not issued in document form)
<i>Date of adoption of decision:</i>	17 July 2025
<i>Subject matter:</i>	Deportation to Myanmar
<i>Procedural issue:</i>	Substantiation of claims
<i>Substantive issues:</i>	Right to life; torture; cruel, inhuman or degrading treatment or punishment
<i>Articles of the Covenant:</i>	6 and 7
<i>Article of the Optional Protocol:</i>	2

1.1 The author of the communication is K.C., a national of Myanmar born in 1999. Her application for asylum has been denied in the State Party. She claims that by deporting her to Myanmar, the State Party would violate her rights under the Covenant.<sup>1</sup> The Optional Protocol entered into force for the State Party on 23 March 1976. The author is not represented by counsel.

1.2 On 10 February 2022, 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 removing the author to Myanmar while her case was under consideration by the Committee.

\* 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.

<sup>1</sup> The author does not specify which article of the Covenant is invoked in the complaint.



**Facts as presented by the author**

2.1 The author arrived in Sweden on 18 February 2021 on a student visa, having travelled from Türkiye where she had been studying since 2018. She applied for asylum in the State Party on 9 March 2021, claiming she would be at risk of persecution if returned to Myanmar due to her and her family's political activities in Myanmar and for having made posts on social media critical of the military junta in Myanmar. She also claimed that she would be at risk of persecution due to her ethnicity and religion, being of Indian descent and Muslim faith.

2.2 The author's asylum application was rejected on 30 July 2021 by the Migration Agency. In its decision, the Migration Agency noted that the author had not lived in Myanmar since 2018 and had thus not participated in the recent demonstrations against the military junta in the country. It noted that she had stated that her father and brother had participated in the demonstrations but found that it had not been substantiated that they would have come to the attention of the authorities due to that fact. The Agency noted that the author had made posts on Facebook expressing her opposition to the military junta, but it found that such opinions were shared by many in Myanmar, regardless of their ethnicity, and that the author had not substantiated that her posts would have come to the attention of the authorities in Myanmar or that she would be at risk of persecution due to the posts. It noted that persons of Indian ethnicity and Muslim faith might risk discrimination in Myanmar, but found that it had not been substantiated that the author had personally experienced any difficulties in access to school, healthcare or identity documents due to her ethnicity.

2.3 On 23 September 2021 the author appealed the rejection of her asylum application. By that time, her father and brother had left their home in Yangon in order to avoid arrest. She noted in her appeal that sharing political views on social media was enough for someone to be arrested and that she had also supported the Civil Disobedience Movement in Myanmar on Facebook and by providing financial and material support. The Migration Court rejected the author's appeal on 30 November 2021, finding that the author had not substantiated her risk of persecution on account of her political opinion or her ethnicity if returned to Myanmar. It noted that the author had not been in Myanmar since the military took power and had not participated in any political activities in the country, nor was she a member of any political party. The Court further considered that the arguments put forward about the situation of the author's father and brother were insufficient to make the finding that the author was a person in need of international protection. The decision was upheld by the Migration Court of Appeal on 25 January 2022.

**Complaint**

3.1 The author claims that if she is deported to Myanmar the authorities will find out on her arrival at the airport that she has applied for asylum abroad, as her Swedish visa and her passport have expired, meaning she will need other travel documents to be issued. She claims that if the authorities find out about her asylum application, she risks facing arrest in Myanmar. She states that she knows of people who were sentenced to seven years' imprisonment, some of whom were tortured and killed, after being deported back to Myanmar. She notes that she is particularly worried because the authorities have been trying to arrest her brother and father, who have had to go into hiding. She also fears that the authorities will try to detain her in order to force her father and brother to present themselves to the authorities, particularly because of the increased risk she is facing due to her ethnicity and faith. She argues that the State Party's authorities are underestimating the severity of the cumulative risks she would be facing if deported to Myanmar, especially as a politically active woman and a member of a persecuted minority group in Myanmar. She further notes that her anti-military social media posts were made under her real name, which is uncommon in Myanmar, and thus easy to find through a web search. She also notes that she is diabetic and is worried that she would be denied access to medical care in Myanmar.

3.2 The author notes that, according to country reports, over 8,000 people have been arrested since the military coup on 1 February 2021. Arrest warrants have been issued for hundreds more. Politicians, journalists, human rights defenders and persons taking part in peaceful demonstrations are particularly vulnerable. However, those arrested also include individuals who have only shared posts or expressed support for the protest movement on social media and family members of political activists, including children.

### **State Party's observations on admissibility and the merits**

4.1 On 16 September 2022, the State Party submitted its observations on admissibility and the merits of the communication. It submits that the communication should be found inadmissible for lack of sufficient substantiation under article 2 of the Optional Protocol. Should the Committee find the author's claims to be admissible, the State Party submits that the claims lack merit.

4.2 The State Party notes the author's claims that she risks treatment constituting grounds for protection owing to her and her family's political activities and her religion and ethnicity. It notes that, while not wishing to underestimate the concerns that may legitimately be expressed regarding the human rights situation in Myanmar, the situation does not in itself suffice to establish that the author's removal would be contrary to articles 6 or 7 of the Covenant, and that the assessment of the author's claims must thus focus on the foreseeable consequences of her removal to Myanmar in the light of her personal circumstances.

4.3 The State Party argues that its domestic authorities are in a very good position to assess the information submitted by asylum-seekers and to appraise the credibility of their statements and claims. It submits that in the present case both the Migration Agency and the Migration Court conducted thorough examinations of the author's claims. The State Party notes that the Migration Agency held an introductory interview with the author in connection with her asylum application on 9 March 2021, the minutes of which were communicated to her public counsel on the same day. On 25 March 2021, an extensive asylum interview that lasted for more than two hours took place in the presence of counsel. The minutes from the interview were communicated to the counsel on 26 March 2021. The interview was conducted in the presence of an interpreter, whom the author confirmed that she understood well. Through her counsel, the author was invited to scrutinize the minutes from the interviews conducted, submit written observations on them and make written submissions and appeals. The State Party argues that the author therefore had several opportunities to explain the relevant facts and circumstances in support of her claim and to argue her case, orally and in writing, before the migration authorities. It submits that there is no reason to conclude that the domestic rulings were inadequate or that the outcome of the domestic proceedings was in any way arbitrary or amounted to a denial of justice.

4.4 The State Party notes the author's claims that the migration authorities failed to make a cumulative assessment of her individual risk factors, based on her family's political activities in Myanmar, her political activities on social media and her ethnic and religious identity. However, the State Party argues that it is clear from the domestic rulings that those circumstances were duly assessed by the migration authorities. Upon examination of the author's application for asylum, the migration authorities found that her faith and ethnicity could not, on their own, suffice for it to be deemed plausible that she would be subjected to treatment constituting grounds for protection upon return to Myanmar. The migration authorities therefore held that additional individual grounds for protection were required in order to establish that the author was in need of international protection.

4.5 As concerns the political activities of the author and her family, the State Party notes that the migration authorities considered that the author had failed to substantiate her claim that she would face a specific and individualized risk of persecution or abuse in her country of origin. The Migration Agency did not question that the author opposed the military junta but noted that a large part of the population also did so, regardless of ethnicity. In its decision, the Agency furthermore noted that the author's father and brother had not attracted the attention of the authorities, even though the author stated that they had taken part in demonstrations against the military junta and, as she had done, had expressed their opposition on social media. As regards the author's ethnicity and religion, the Migration Agency noted that no information had emerged that indicated that she had been subjected to harassment on those grounds in her country of origin. Thus, in an overall assessment, the migration authorities found that the circumstances cited by the author did not plausibly demonstrate that she was in need of international protection.

4.6 The State Party also notes that, in her complaint, the author claims that she would be at risk if removed to Myanmar because of her asylum application in Sweden. The State Party argues that there is nothing to support the conclusion that the authorities in Myanmar would

know or learn of her asylum application in Sweden. It further notes that, in her complaint, the author has also stated that she was worried that she would be denied medical care in Myanmar. The State Party argues that she has not substantiated her claim in that regard and notes that the Migration Agency in its decision noted that it had not been shown that she had been denied medical care when she lived in Myanmar.

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

5. On 23 November 2023, the author submitted her comments on the State Party's observations. She maintains that the communication is admissible and reiterates the claims as submitted in her initial complaint.

#### **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 The Committee notes the author's claims that if she is deported to Myanmar, she would be at risk of persecution due to having made posts on social media critical of the military junta in Myanmar and her family's political activities in Myanmar. It also notes her claim that she would be at increased risk of persecution due to her ethnicity and religion, being of Indian descent and Muslim faith, and her claim that she could be denied access to medical care in Myanmar. The Committee notes that, while the author, who is not represented by counsel, has not invoked any specific article of the Covenant, her claims raise issues under articles 6 and 7 of the Covenant.

6.4 The Committee notes the State Party's submission that the author has failed to substantiate her claims for the purposes of admissibility. It notes the State Party's argument that both the Migration Agency and the Migration Court conducted thorough examinations of the author's claims, during which the author had several opportunities to explain the relevant facts and circumstances in support of her claims and to argue her case. It further notes the State Party's submission that the migration authorities conducted a thorough assessment of all the claims invoked by the author and found that the author had failed to substantiate her claim that she would face a specific and individualized risk of persecution if returned to Myanmar.

6.5 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 referred to the obligation of States Parties not to extradite, deport, expel or otherwise remove a person from their territory, where there were substantial grounds for believing that there was a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant (para. 12). The Committee has also indicated that the risk must be personal<sup>2</sup> and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.<sup>3</sup> All relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.<sup>4</sup> The Committee recalls that it is generally for the organs of States parties to examine the facts and evidence of the case in question in

<sup>2</sup> *K v. Denmark* (CCPR/C/114/D/2393/2014), para. 7.3; *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.2; *X v. Denmark* (CCPR/C/110/D/2007/2010), para. 9.2; *Q.A. v. Sweden* (CCPR/C/127/D/3070/2017), para. 9.3; and *A.E. v. Sweden* (CCPR/C/128/D/3300/2019), para. 9.3.

<sup>3</sup> *X v. Denmark*, para. 9.2; *X v. Sweden* (CCPR/C/103/D/1833/2008), para. 5.18; *Q.A. v. Sweden*, para. 9.3; and *A.E. v. Sweden*, para. 9.3.

<sup>4</sup> *Ibid.*

order to determine whether such a risk exists,<sup>5</sup> unless it can be established that the assessment was clearly arbitrary or amounted to a manifest error or denial of justice.<sup>6</sup>

6.6 In the present case, the Committee notes the author's claims that she would be at risk of persecution if returned to Myanmar owing to her and her family's political activities and her ethnicity and religion. The Committee notes, however, that in its decisions the migration authorities noted that the author's father and brother had not attracted the attention of the authorities in Myanmar, even though the author stated that they had taken part in demonstrations against the military junta in Myanmar and, as she had done, had expressed their opposition on social media, and that the author had not substantiated that any of her social media posts would have come to the attention of the authorities in Myanmar. The Committee further notes the finding by the migration authorities that no information had emerged to indicate that the author had been subjected to discrimination or harassment because of her ethnicity or faith in her country of origin, or that she would have been denied medical care in Myanmar. The Committee notes that, while the author disagrees with the conclusion reached by the migration authorities, she has not substantiated that the migration authorities failed to assess any of the claims raised by her or take into account any of the risk factors invoked by her. The Committee thus finds, based on the information on file, that the author has not substantiated that the conclusions of the domestic authorities were clearly arbitrary or amounted to a manifest error or denial of justice.

6.7 The Committee therefore concludes that the author has failed to substantiate, for purposes of admissibility, her claims under articles 6 and 7 of the Covenant and declares the communication 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 communicated to the State Party and to the author.

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<sup>5</sup> *Pillai et al. v. Canada* (CCPR/C/101/D/1763/2008), para. 11.4; and *Z.H. v. Australia* (CCPR/C/107/D/1957/2010), para. 9.3.

<sup>6</sup> For example, *K v. Denmark*, para. 7.4; *Y.A.A. and F.H.M. v. Denmark* (CCPR/C/119/D/2681/2015), para. 7.3; *Rezaifar v. Denmark* (CCPR/C/119/D/2512/2014), para. 9.3; *Q.A. v. Sweden*, para. 9.3; and *A.E. v. Sweden*, para. 9.3.