



# International Covenant on Civil and Political Rights

Distr.: General  
7 May 2024

Original: English

## Human Rights Committee

### Decision adopted by the Committee under the Optional Protocol, concerning communication No. 4415/2023\*, \*\*

<i>Communication submitted by:</i>	O.K., represented by counsel, Timo Riissanen
<i>Alleged victim:</i>	The author
<i>State party:</i>	Finland
<i>Date of communication:</i>	6 June 2023 (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 5 July and 21 November 2023 (not issued in document form)
<i>Date of adoption of decision:</i>	28 March 2024
<i>Subject matter:</i>	Deportation to the Russian Federation with an alleged risk of religious persecution
<i>Procedural issues:</i>	Exhaustion of domestic remedies; incompatibility; substantiation
<i>Substantive issues:</i>	Cruel, inhuman or degrading treatment or punishment; discrimination on the basis of religion; freedom of religion; minorities; cultural rights
<i>Articles of the Covenant:</i>	7, read alone and in conjunction with 18 (1) and (3), 26 and 27
<i>Article of the Optional Protocol:</i>	2

1.1 The author of the communication is O.K., a national of the Russian Federation born in 1954. She submits that, by deporting her to the Russian Federation, the State party would violate her rights under article 7, read alone and in conjunction with articles 18 (1) and (3), 26 and 27, of the Covenant. The Optional Protocol entered into force for the State party on 23 March 1976. The author is represented by counsel.

1.2 On 5 July 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 the Russian Federation while the communication was being examined.

\* Adopted by the Committee at its 140th session (4–28 March 2024).

\*\* The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Mahjoub El Haiba, Carlos Gómez Martínez, Laurence R. Helfer, Marcia V.J. Kran, Bacre Waly Ndiaye, Hernán Quezada Cabrera, José Manuel Santos Pais, Soh Changrok, Tijana Šurlan, Kobauyah Tchamdja Kpatcha, Teraya Koji, Hélène Tigroudja and Imeru Tamerat Yigezu.



1.3 On 1 September 2023, the State party requested that the interim measures with regard to the author be lifted and that the admissibility and merits of the communication be considered separately. On 21 November 2023, the Committee, acting through its Special Rapporteurs on new communications and interim measures, acceded to the State party's requests.

#### **Facts as submitted by the author**

2.1 The author belongs to the Christian denomination of Jehovah's Witnesses. Adherents of the faith engage in proselytizing, including door-to-door preaching, and meet to worship twice a week. In 2001, in the Russian Federation, the author was baptized into the faith. As a designated "pioneer" within the faith, she engaged in full-time evangelizing in Orenburg. She preached from door to door, on public streets and in discussions with friends and neighbours.

2.2 In 2017, pursuant to a decision of the Supreme Court of the Russian Federation, the Administrative Centre of Jehovah's Witnesses in Russia was declared an extremist organization and was closed, and the activities of Jehovah's Witnesses were banned in the country.

2.3 Despite that decision, the author continued to practise her faith, albeit as discreetly as possible to avoid arrest. She worked at Café Maestro, where religious meetings were organized. She actively participated in organizing such meetings, including one that took place on 19 November 2017. In connection with that meeting, a criminal investigation was opened against her on 14 May 2018, for organizing and managing the local religious organization of Jehovah's Witnesses. All the individuals who worked at Café Maestro were made the subjects of criminal investigations.

2.4 On 16 May 2018, the police searched the homes of 19 families who were Jehovah's Witnesses. One of the author's relatives was interrogated as a suspect in the criminal investigation. He was asked whether he had any acquaintances who were Jehovah's Witnesses. The police came to the author's home on the same date to find her, but she was not there. Thereafter, the police repeatedly searched for her owing to her faith and placed her on a list of criminal extremists.

2.5 On 22 May 2018, the author left the Russian Federation and travelled to Finland, where she applied for asylum on the same date. In Finland, the author has continued to engage in preaching as a Jehovah's Witness. She based her asylum claim on a risk of religious persecution upon return to the Russian Federation.

2.6 On 26 October 2018, the Finnish Immigration Service conducted an interview with the author. On 7 November 2019, the Finnish Immigration Service rejected the author's asylum application, concluding that she would not face a risk of imprisonment in the Russian Federation. On 15 September 2020, the Administrative Court of Eastern Finland rejected the author's appeal against the negative decision of the Finnish Immigration Service. On 17 August 2021, the Supreme Administrative Court rejected her request for leave to file another appeal.

2.7 On an unspecified date in September 2021, the author's lawyer in the Russian Federation telephoned municipal officials in Orenburg to obtain information about the criminal investigation against the author. The officials informed the lawyer that they were aware that the author was in Finland and were awaiting her return; that the author was suspected of engaging in extremist activities; and that, if the author returned to the Russian Federation, she would be summoned for questioning and would be imprisoned.

2.8 On 15 September 2021, the author applied again for asylum in Finland, invoking newly issued and more favourable jurisprudence of the Supreme Administrative Court. On 21 March 2022, the Finnish Immigration Service interviewed the author in connection with her asylum application. On 29 July 2022, the Finnish Immigration Service rejected her application. On 3 March 2023, the Administrative Court of Eastern Finland rejected her appeal against that decision. On 2 April 2023, the Supreme Administrative Court rejected her request for leave to file another appeal.

2.9 On 20 May 2023, the police in Finland orally informed the author that she had a few weeks to voluntarily leave the country. On 12 June 2023, the police informed the author that

she would be deported to the Russian Federation on 6 July 2023. The author states that her son and his wife have been granted asylum in Finland. She maintains that she has not submitted the same matter to another body for consideration.

### **Complaint**

3.1 The author argues that, by deporting her to the Russian Federation, the State party would violate her rights under article 7, read alone and in conjunction with articles 18 (1) and (3), 26 and 27, of the Covenant. The author has a well-founded fear of being persecuted for her religious beliefs in the Russian Federation, where several hundred Jehovah's Witnesses have been arrested, prosecuted and convicted for practising their faith. If the author were returned to her country, she would continue to practise her faith and would therefore face the same fate.

3.2 The decisions of the State party's migration authorities concerning the author's asylum claims were not well founded. The authorities failed to apply the correct legal standard when assessing her claims. They considered it relevant that, while the author had helped to organize religious meetings, she was not primarily responsible for organizing them. The authorities also failed to consider the author's situation in the light of the rapidly deteriorating situation in the Russian Federation for Jehovah's Witnesses, who constitute a vulnerable group in the country. The migration authorities should have considered the evolving circumstances in the country to properly evaluate the level of risk that the author would face.

### **State party's observations on admissibility**

4. In its submission of 1 September 2023, the State party considers that the communication is inadmissible on three grounds. First, the author did not exhaust domestic remedies because she did not invoke articles 7, 18 (1) and (3), 26 and 27 of the Covenant before the domestic authorities. Second, the author's claims with respect to articles 18, 26 and 27 of the Covenant are incompatible with the Covenant, because those provisions do not have extraterritorial application. Third, the communication is manifestly ill-founded. The author's claims were examined during two rounds of asylum proceedings, which took place in 2019–2020 and 2022–2023. During the second round of proceedings, the author raised factual assertions that she had not raised during the first round: she alleged that all the individuals who had worked at Café Maestro, where she had been employed, had been made the subjects of criminal investigations initiated in May 2018. The domestic bodies examined her claims and concluded that she had not credibly established that the authorities in the Russian Federation were particularly interested in her personally or that she was the subject of a criminal investigation because of her activities. The author was not able to clarify and establish, in her submissions to the Committee, that she was, in fact, the subject of a criminal investigation, as she had claimed during the second round of asylum proceedings.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

5.1 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.

5.2 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.

5.3 The Committee notes the State party's position that the communication is manifestly ill-founded because the author has not substantiated that, if she were deported to the Russian Federation, she would face irreparable harm owing to her religious faith or activities as a Jehovah's Witness. 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 when there 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). According to the jurisprudence of the Committee, 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.<sup>1</sup> On 11 September 2023, the Committee requested comments from the author's counsel on the State party's observations on the admissibility of the communication but did not receive any. The Committee notes that, before the communication was submitted, the author had two rounds of asylum proceedings in Finland, in 2019–2020 and 2022–2023. She was interviewed twice by the Finnish Immigration Service, with interpretation services, in 2018 and 2022. She was also able to file appeals against the two negative asylum decisions with the Administrative Court of Eastern Finland, which issued reasoned decisions on the appeals. The Committee also notes the information provided by the author's counsel on 15 January 2024 that the author had submitted a third asylum application in Finland based on new evidence. The Committee notes the State party's observation that, during the first round of asylum proceedings, the author could have raised, but did not raise, her claim relating to her employment at Café Maestro and the resulting criminal investigation that was initiated against her in May 2018 owing to her religious activities at the café. The Committee notes that the State party's migration authorities did not dispute that the author was a Jehovah's Witness or that some Jehovah's Witnesses had been arrested, prosecuted and convicted in the Russian Federation for their religious activities. The State party's authorities nevertheless considered that the documentation provided by the author during the asylum proceedings did not establish that she was the subject of a criminal investigation or had had a particularly active or visible role in her religious activities. They therefore considered that she was not a person of interest who was likely to attract adverse attention from the authorities in the Russian Federation owing to her faith. In the absence of a response from the author to the State party's observations on the admissibility of the communication, the Committee considers that the author has not provided adequate details to substantiate her claim that, if she were returned to the Russian Federation, she would face a personal risk of irreparable harm of the type contemplated in article 7, read alone or in conjunction with articles 18, 26 or 27, of the Covenant. The Committee therefore finds that the communication is inadmissible under article 2 of the Optional Protocol.

5.4 In the light of the above findings, the Committee does not deem it necessary to examine other grounds of inadmissibility.

6. 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.

---

<sup>1</sup> For example, *B.R. and M.G. v. Denmark* (CCPR/C/138/D/2342/2014), para. 12.6.