



International Covenant on Civil and Political Rights

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Human Rights Committee

Decision adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3701/2020*, **, ***

<i>Communication submitted by:</i>	C.C.N. (not represented by counsel)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Sweden
<i>Date of communication:</i>	3 January 2020 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 15 January 2020 (not issued in document form)
<i>Date of adoption of decision:</i>	24 October 2022
<i>Subject matter:</i>	Deportation to Burundi
<i>Procedural issue:</i>	Level of substantiation of claims
<i>Substantive issues:</i>	Risk of torture or cruel, inhuman or degrading treatment or punishment; non-refoulement
<i>Articles of the Covenant:</i>	2, 6, 7, 8, 9, 13 and 14
<i>Articles of the Optional Protocol:</i>	2, 3 and 5 (2)

1.1 The author of the communication is C.C.N., a national of Burundi born on 15 July 1973. He claims that the State party has violated his rights under articles 2, 6, 7, 8, 9,¹ 13 and 14² of the Covenant. The Optional Protocol entered into force for the State party on 6 December 1971. The author is not represented by counsel.

1.2 On 15 January 2020, 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 Burundi while his case was

* Adopted by the Committee at its 136th session (10 October–4 November 2022).

** The following members of the Committee participated in the examination of the present communication: Wafaa Ashraf Moharram Bassim, Yadh Ben Achour, Arif Bulkan, Mahjoub El Haiba, Furuya Shuichi, Carlos Gómez Martínez, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Soh Changrok, Kobayyah Tchamja Kpatcha, Hélène Tigroudja, Imeru Tamerat Yigezu and Gentian Zyberi.

*** An individual opinion by Committee members Duncan Laki Muhumuza, José Manuel Santos Pais and Imeru Tamerat Yigezu is annexed to the present decision.

¹ The author invokes article 9 only in his submissions of 14 July 2021.

² The author invokes article 14 only in his reply of 3 February 2021 to the State party's submissions.



under consideration by the Committee. On 7 June 2021, the State party submitted a request to lift interim measures, which the Committee rejected on 30 August 2022.³

Facts as submitted by the author

2.1 The author has been a member of the Movement for Solidarity and Democracy since December 2009.⁴ In the wake of the candidacy of Pierre Nkurunziza for a third presidential term in August 2015, in blatant violation of the Constitution of Burundi, which allowed only two consecutive terms for the president, the author actively participated in numerous protest marches against such candidacy. In that context, pro-government armed militias, which colluded with police and judges, have been looking for members of the Movement for Solidarity and Democracy who were identified during the protest marches in order to convict them for causing public disorder. The intention was to arrest and detain political opponents of the Government of Mr. Nkurunziza who would be tortured, persecuted and eventually killed. All reports on the human rights situation in Burundi, including those of the United Nations and Amnesty International, point out that members of opposition parties in general – and those of the Movement for Solidarity and Democracy in particular – are subject to persecution, arbitrary imprisonment and torture by armed militia (Imbonerakure⁵) with the complicity of the Burundian police and the justice system.

2.2 On 3 May 2015, three men who had taken part in the demonstrations came to the author's house in Bujumbura. As one of them was injured, the author drove him to the hospital. The author was subsequently summoned by the police for questioning about having taken part in the demonstration. He explained what had happened and the police released him. In October 2015, a member of the Imbonerakure called the author, indicating that there were pictures of him in the demonstrations and threatening him. The author changed his SIM card but, in March 2016, received another telephone threat. Since he was afraid, he informed his "boss"⁶ of the telephone threats. As a result, the author was transferred to the city of Gitega in June 2016. In September 2016, a group of people⁷ came looking for him at his home in Bujumbura. In January 2017, they looked for him at his place of work in Gitega. The author therefore decided to visit a friend in Sweden and applied for a visa. On 2 April 2017, the author left Bujumbura to stay with his friend in Sweden for a holiday.

2.3 On 19 April 2017, the author's maid in Bujumbura received an arrest warrant for the author, issued by the police. By a summons dated 18 April 2017 and issued by the prosecutor's office of the Mukaza High Court, the author was accused of harming national security. On 19 April 2017, the same prosecutor's office issued a warrant for his arrest.⁸

2.4 On 24 April 2017, the author applied for political asylum in Sweden. On 21 February 2019, the Swedish Migration Agency rejected his application for lack of credibility and decided to deport him to Burundi. The Agency noted in particular that as the two official documents submitted were simple in nature and easy to forge, they were deemed of low probative value. The two documents alone could not establish the plausibility of the author's account. The Agency also noted that the two documents were pre-printed forms and carried the same handwriting.

2.5 On 10 October 2019, the Lulea Administrative Court considered that the general situation in Bujumbura did not in itself justify access to a residence permit. It therefore analysed the author's individual protection needs. Within the Movement for Solidarity and Democracy party, the author was responsible for clothing stocks. Every time the party recruited new members, he gave them caps and T-shirts. The clothes were used during demonstrations and meetings. Because of this, according to the author, he was at risk of being subjected to ill-treatment by the current Government. The court also took into consideration the evidence that the author had produced in support of his statements: his Movement for

³ The author is still in Sweden.

⁴ According to a statement by the Movement for Solidarity and Democracy – Coordination Europe, made in Brussels on 6 March 2019.

⁵ The youth wing of the party in power.

⁶ No further details.

⁷ No further details.

⁸ Copy of the two documents on file.

Solidarity and Democracy membership card, the summons to appear before the prosecutor and the arrest warrant, as well as a statement by the Movement for Solidarity and Democracy Sweden party that he was a member of its Swedish chapter and that it would be dangerous for him to return to Burundi.⁹ However, the court considered that the documents produced were simple in nature and had little probative value, hence they did not allow the conclusion that the author had – or had had – that level of engagement within the party, or that he had demonstrated the existence of a threat, likely to put him at risk of ill-treatment upon his return to his country of origin.

2.6 The court further considered that the author's oral testimony was not credible because he had provided contradictory information and his account of the facts was vague and lacking in detail. The court therefore did not question the author's political engagement but rather considered that this element had not triggered the alleged threat, given that the author was very vague about the details of the threat during the court hearings.

2.7 As for the 2017 arrest warrant, the court held that the author had not plausibly explained where, when and how the Burundian police had allegedly summoned him and sent the arrest warrant. The court noted that the author's political activities had been engaged in between the moment when he became a member of the Movement for Solidarity and Democracy, in December 2009, and 2015. Then, according to his own statements, the author went into hiding and received an arrest warrant in 2017, when he was already in Sweden. The court therefore found it surprising that the authorities would send a summons and an arrest warrant several years after he had come to their attention owing to his political engagement. The court further noted that the author was able to apply for a passport and leave Burundi legally after all of those events, despite the fact that the Government had been allegedly persecuting him. The court found it contradictory that the author had left Burundi to visit a friend in Sweden but intended to return to his country of origin although he was under threat. The court noted that the author had waited for several years before applying for asylum, despite having received so many threats that he had to go into hiding in his home country before arriving in Sweden. No reasonable or adequate explanation was given by the author. Finally, it was considered that his involvement in the activity of the Swedish branch of the Movement for Solidarity and Democracy was of limited scope and did not indicate a high profile or that his political engagement in Sweden was known in Burundi.

2.8 On 16 December 2019, the Stockholm Court of Appeal refused to grant the author leave to appeal.¹⁰

Complaint

3.1 The author claims that his removal would result in the violation of his rights under articles 2, 6, 7, 8 and 13 of the Covenant because, if forcibly returned to his country of origin, he would face a real risk of arbitrary arrest, torture and death, following the threats he had received from the Burundian police and the pro-government armed militia, the so-called Imbonerakure.

3.2 The author alleges that since 2017, he has been actively sought by the Burundian police and by the armed militia linked to the Government in power because of his political involvement with the Movement for Solidarity and Democracy opposition party.

State party's observations on admissibility and the merits

4.1 On 15 September 2020, the State party submitted its observations on the admissibility and the merits of the communication. It submits that the communication should be found inadmissible for lack of sufficient substantiation of the author's claims. Should the

⁹ According to a statement by the Movement for Solidarity and Democracy – Coordination Europe, made in Brussels on 12 September 2019.

¹⁰ The author provides the following translation of the decision of the court of appeal: "In order for the Migration Tribunal to hear the appeal, a leave to appeal is required. The Migration Tribunal considers that no grounds have been presented for granting leave for appeal. Therefore, the appeal will not be heard by the Tribunal."

Committee find the communication to be admissible, the State party submits that it is without merits.

4.2 As to the merits, the State party refers to the general human rights situation in Burundi. While not underestimating the concerns that may legitimately be expressed regarding the human rights situation in Burundi, the State party holds that the situation there does not in itself suffice to establish that the author's expulsion would be contrary to article 7 of the Covenant.¹¹ The assessment before the Committee must thus focus on the foreseeable consequences of the author's expulsion to Burundi in the light of his personal circumstances in order to determine whether he would personally face a real risk of being subjected to treatment in violation of article 7 of the Covenant upon his return to Burundi. This is what the Swedish migration authorities did in their assessment.

4.3 The State party reiterates that the Swedish Migration Agency held introductory interviews with the author in connection with his asylum application on 28 April 2017 and on 30 May 2017. On 25 September 2018, an extensive asylum investigation which lasted for more than three hours was conducted in the presence of the public counsel. The minutes from the interview and the investigation were subsequently communicated to the public counsel. Upon appeal, the Migration Court held an oral hearing with the author in the presence of his public counsel. Both the investigations and the oral hearing were conducted with the assistance of interpreters, whom the author confirmed that he understood well.

4.4 The State party notes that through his public counsel, the author has been invited to scrutinize and submit written observations on the minutes from the conducted interviews and to make written submissions and appeals. It follows that the author has had opportunities to explain the relevant facts and circumstances in support of his claim and to argue his case, orally as well as in writing, before both the Swedish Migration Agency and the Migration Court, which were thus in possession of sufficient information for making a well-informed, transparent and reasonable risk assessment concerning the author's need for protection in Sweden.

4.5 The State party therefore considers that given the fact that the Swedish Migration Agency and the migration courts are specialized bodies with particular expertise in the field of asylum law and practice, there is no reason to conclude that the national rulings were inadequate or that the outcome of the domestic proceedings was in any way arbitrary or amounted to a denial of justice. Accordingly, the State party holds that considerable weight must be attached to the opinions of the Swedish migration authorities, which have had the benefit of seeing, hearing and questioning the author in person, directly assessing the information and documents submitted by him and examining the veracity of the claims he made. For the State party, the author is clearly trying to use the Committee as an appeals court to have his credibility reassessed. There is no reason to conclude that the rulings by the domestic authorities were inadequate or that the outcome of the domestic proceedings was in any way arbitrary or amounted to a denial of justice.

4.6 On 7 June 2021, the State party reiterated its submissions, requested the lifting of the interim measures and declared that no further correspondence should be necessary prior to the Committee's consideration of the present communication.

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

5.1 On 3 February 2021, the author submitted his comments on the State party's observations. He refers to the human rights situation in Burundi¹² and maintains that his removal to Burundi would amount to a violation of his rights under articles 7 and 14¹³ of the Covenant.

¹¹ Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 30.

¹² The author makes reference to a report published by the Burundi Human Rights Initiative entitled *A Façade of Peace in a Land of Fear: Behind Burundi's Human Rights Crisis* (January 2020). Available at https://burundihri.org/english/january_2020.php.

¹³ This was the first time that the author invoked article 14.

5.2 On 14 July 2021, the author submitted that on 15 April 2021, he was issued a house arrest by the Mukaza High Court for undermining the internal security of the State.¹⁴ According to the author, the summons demonstrates that, on the one hand, he is still being prosecuted by the Burundian justice system for his political engagement and, on the other hand, that his return to Burundi would expose him to immediate arrest by the State party and arbitrary detention contrary to article 9¹⁵ of the Covenant.

5.3 The author also refers to the situation in Burundi, as reported on 26 February 2021 by Commissioner of the Commission of Inquiry on Burundi Françoise Hampson with regard to the impunity of the police, the intelligence service and the Imbonerakure. He also explains that he had undergone surgery on 12 October 2020 for umbilical and epigastric hernias but that the operation was not a success, as he suffers from side effects such as recurrent abdominal pain, infection of the wound and recurrence of the hernia. He therefore considers that sending him back to Burundi would pose a serious threat to his health because he would not be able to receive the necessary care and, above all, because he would be at risk of imprisonment on arrival in Burundi.

5.4 On 19 August 2021, the author reiterated that for health and safety reasons, he wished to stay in Sweden for the time needed to undergo treatment for his umbilical and epigastric hernias, which he would not be able to receive in his country of origin, since he would be arrested as soon as he arrived in Burundi. Ten months after his operation, he is still being treated for swelling and inflammation of his hernias by the various surgeons at Sundsvall hospital and he risks a second operation if things do not improve.

5.5 On 10 December 2021, the author submitted that after an abdominal ultrasound and computerized tomography (CT) scan, it was decided that he would have to undergo another operation in less than 90 days. He is therefore still under medical care in Sweden and is unable to be returned to his home country for health and safety reasons.

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 claim that he has exhausted all effective domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that it is not precluded from examining the communication under article 5 (2) (b) of the Optional Protocol.

6.4 The Committee takes note with concern of the author's claims in respect of his health (see paras. 5.3–5.5 above).¹⁶ However, in accordance with the information at its disposal, the Committee notes that the author has not raised his health problems before domestic authorities as grounds for asylum or to delay his deportation. In the absence of any information to the contrary, the Committee considers that the author has not exhausted

¹⁴ Article 588 of the Burundian Criminal Code. The document mentions that it was issued following the author's participation in demonstration marches in May, June and July 2015.

¹⁵ This is the first time that the author invoked article 9.

¹⁶ On 19 October 2022, the author informed the Committee that on 11 October 2022, he had a second operation for an infection and inflammation of gallstones. The author invokes complications caused by the fact that during the first operation, he had a mesh prosthesis in his abdomen for his umbilical and epigastric hernias. He maintains that he lives a semi-handicapped life because he can no longer lift anything heavier than 4 kilos. He is still regularly monitored by the Swedish health structures. For health and safety reasons, the author declares that he still wishes to stay in Sweden as long as necessary to be treated.

domestic remedies and declares this part of the communication inadmissible under article 5 (2) (b) of the Optional Protocol.

6.5 The Committee notes the author's claim that by forcibly returning him to Burundi, the State party would violate his rights under articles 2, 6, 7, 8, 9, 13 and 14 of the Covenant. It also notes the State party's challenge to admissibility for lack of sufficient substantiation of the author's claims.

6.6 The Committee first notes that the author has alleged a violation of articles 2, 8, 9, 13 and 14 of the Covenant, but without providing any information, evidence or explanation of how his rights under these articles would be violated by the State party through his removal to Burundi. The Committee therefore concludes that this part of the communication is insufficiently substantiated and declares it inadmissible pursuant to article 2 of the Optional Protocol.

6.7 The Committee notes the author's allegations under articles 6 and 7 of the Covenant that his safety and life would be in danger if he were returned to Burundi as a consequence of his political engagement with the opposition party Movement for Solidarity and Democracy. The Committee recalls its jurisprudence according to which considerable weight should be given to the assessment conducted by the State party and that it is generally for the organs of the States parties to the Covenant to review and evaluate facts and evidence in order to determine whether such risk exists, unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice.¹⁷ The Committee observes that in their decisions, the Swedish migration authorities found the author's statements to be inconsistent and lacking details. In addition, the Committee notes that the State party examined the evidence produced by the author in support of his allegations. On the one hand, while not contesting the author's affiliation with the opposition party in Burundi, the Swedish migration authorities considered that the author had not demonstrated that his political profile would have attracted the interest of the Burundian authorities. In this respect, the Committee notes that after the alleged events, the author was able to request a passport and leave his country legally, without any impediment raised by the Burundian authorities.

6.8 On the other hand, the Committee notes that the State party's authorities have also analysed the documents produced by the author in connection with his alleged prosecution for having taken part in demonstrations in 2015. The Swedish authorities expressed doubts that the Burundian authorities would have sent a summons and an arrest warrant only in 2017, when the author was already in Sweden, although they had been aware of his political engagement since 2015. The fact that the author could have left his country legally without any problem in 2017, although he was presumably being sought by the Burundian authorities, was considered equally unlikely. The Committee also notes the author's claim that a house arrest warrant was issued on 15 April 2021 for facts that occurred in 2015.

6.9 The Committee considers that the information at its disposal demonstrates that the State party took into account all the elements available, including the human rights situation in Burundi and the evidence provided by the author in support of his allegations, when evaluating the risk faced by the author and nevertheless, owing to the marked inconsistencies of his statements, found that the author had not rendered probable that in case of return he would be at risk of persecution justifying asylum. The Committee considers that, while the author disagrees with the factual conclusions of the State party's authorities and with their decisions, he has not shown that the decisions of the Swedish migration authorities were arbitrary or manifestly erroneous, or amounted to a denial of justice. Accordingly, the Committee considers that this part of the communication is insufficiently substantiated for the purposes of admissibility and declares it inadmissible under article 2 of the Optional Protocol.

7. The Committee therefore decides:

(a) That the communication is inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol;

¹⁷ *Y.A.A. and F.H.M. v. Denmark* (CCPR/C/119/D/2681/2015) para. 7.3; and *Rezaifar v. Denmark* (CCPR/C/119/D/2512/2014), para. 8.3.

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

Annex

Individual opinion of Committee members Duncan Laki Muhumuza, José Manuel Santos Pais and Imeru Tamerat Yigezu (dissenting)

1. We regret not being able to concur with the Committee's decision in the present communication. In our view, the author's complaint should have been admitted and a violation found of the author's rights under article 7 of the Covenant.

2. The Committee considered that the State party took into account all elements available, including the human rights situation in Burundi and the evidence provided, having found that the author had not rendered probable that in case of return he would be at risk of persecution justifying asylum (para. 6.9). The Committee concluded that the author had not shown that the decisions of the Swedish migration authorities were arbitrary or manifestly erroneous, or amounted to a denial of justice, the communication being thus considered inadmissible. We do not agree with such a conclusion.

3. The author was not represented by counsel (para. 1.1), and this may have been detrimental to his claim. Notwithstanding, he clearly referred to several factors which, taken together, seem to confirm the high personal risk he may face if returned to his country of origin, Burundi.

4. The State party acknowledges and does not underestimate "the concerns that may legitimately be expressed regarding the human rights situation in Burundi". However, "the situation there does not in itself suffice to establish that the author's expulsion would be contrary to article 7 of the Covenant" (para. 4.2). According to the State party, "there is no reason to conclude that the rulings by the domestic authorities were inadequate, or that the outcome of the domestic proceedings was in any way arbitrary or amounted to a denial of justice" (para. 4.5).

5. We disagree with such findings. In fact, there are several risk factors invoked by the author which, taken together, may lead to the opposite conclusion. The author claims that he is a member of the Movement for Solidarity and Democracy party, having actively participated, in 2015, in protest marches following announcement that the President of Burundi, Pierre Nkurunziza, would run for a third presidential term in August 2015, even though only two consecutive presidential terms were allowed under the Constitution (para. 2.1). Ever since, according to the author, pro-government armed militias (Imbonerakure), police officers and judges have been tracking down members of MSD, as attested by reports from the United Nations and Amnesty International, pointing out that such members are subject to persecution, arbitrary imprisonment and torture.

6. As early as October 2015, a member of the Imbonerakure called the author indicating that there were pictures of him in the demonstrations and threatening him (para. 2.2). The author later asked his boss to be transferred to the city of Gitega. Notwithstanding, in September 2016, a group of people came looking for him in his home in Bujumbura and, in January 2017, also at his place of work in Gitega. Having left Burundi in April 2017 for Sweden, the author was informed by his maid that same month of an arrest warrant issued by the prosecutor's office of the Mukaza High Court, the author being accused of harming national security (para. 2.3). Four years later, in April 2021, the author was further issued a house arrest by the Mukaza Tribunal de grande instance for undermining the internal security of the State, which confirms he is still being prosecuted by the Burundian justice system for his political engagement (para. 5.2).

7. The Swedish Migration Agency noted that official documents submitted by the author were simple in nature and easy to forge, for which reason they were deemed of low probative value (para. 2.4). They were not, however, considered forged documents and the fact they were preprinted and bore the same handwriting does not attest that they were not Burundian official documents.

8. On the other hand, the Lulea Administrative Court acknowledged that the author is a member of MSD, although of minor importance, the author having submitted "his MSD

membership card, the summons to appear before the prosecutor and the arrest warrant, as well as a statement by the MSD Sweden party that he is a member of MSD Sweden and that it is dangerous for him to return to Burundi” (para. 2.5). The court considered however that “the documents produced were of a simple nature and had little probative value”. While not questioning the author’s political engagement (para. 2.6), the court noted that the author was able to apply for a passport and leave Burundi legally, despite the fact that the Government was allegedly persecuting him (para. 2.7).

9. We consider the very existence of the summons to appear before the prosecutor and the arrest warrants of 2017 and 2021, for harming national security, to be sufficient evidence of the reiterated interest of Burundian authorities in the author. Further, contrary to the court’s conclusion, the fact that the author may not have a significant rank in MSD puts him at higher risk of torture and reprisals since, by not being a high-profile person, his persecution and detention will not receive the same public attention. Indeed, the Committee should take judicial notice that the crudest methods in the human rights violation handbook are quite often visited upon the rank and file in the opposition parties, high-ranking officials often being protected owing to their visibility. As regards the issuance of a passport by domestic authorities in 2017, this does not preclude the fact that evidence collected afterwards may still be threatening to the author’s personal safety, or that he belongs to an opposition party.

10. The court also held that the author did not plausibly explain where, when and how the Burundian police allegedly summoned him and sent the arrest warrant (para. 2.7). However, how could the author explain this better to the court, since he was already in Sweden at the time and not in Burundi? Is not the fact that the author was issued a house arrest in 2021 by the Mukaza High Court for undermining the internal security of the State, exposing him to immediate arrest and detention upon his return (para. 5.2), sufficient proof that domestic judicial authorities are still searching for him? The fact there are delays in the ongoing domestic criminal proceedings can be easily explained, since the author is absent from his home country, rendering the conduct of such proceedings more complicated. Further, domestic courts may have been involved in the persecution of other political opponents and therefore backlogs of cases similar to the author’s may exist.

11. As for the situation in Burundi, the author alludes to a report published in January 2020 by the Burundi Human Rights Initiative (para. 5.1) and to another report, published in February 2021, by the Commissioner of the Commission of Inquiry on Burundi, regarding the impunity of the police, the intelligence service and the Imbonerakure (para. 5.3). Both attest to the dire situation of human rights in the country. He further explains that he underwent surgery in October 2020 for umbilical and epigastric hernias, the operation not being a success. He therefore considers that sending him back to Burundi would pose a serious threat to his health because he would not be able to receive the necessary care. The author’s health situation is indeed concerning, since he is still being treated for swelling and inflammation of his hernias, had to undergo a second operation and is currently leading a semi-handicapped life, and is in need of regular monitoring by the Swedish health structures (paras. 5.4–5.5 and footnote 16).

12. In the light of all these cumulative factors, namely, the political situation in Burundi, with a President perpetuating himself in office in contravention of the Constitution of the land, with serious persecution of political opponents and documented violation of their human rights, the fact that the author has been for several years the object of criminal investigation for the serious offence of undermining the internal security of Burundi, which entails the risk of imprisonment, torture and even death, and more recently the deteriorating health conditions of the author, can Swedish authorities still conclude there are no personal risks for the author if he is now returned to his country of origin? We are honestly unable to reach such a straightforward conclusion.

13. Even if it may be debated whether assessment by and conclusions of domestic authorities were clearly arbitrary or amounted to a manifest error or denial of justice, there remains a high personal and real risk of irreparable harm for the author if returned in the present circumstances to Burundi. We would therefore have found the communication admissible and concluded for a violation of the author’s rights under article 7 of the Covenant.