United Nations CCPR/C/130/D/2752/2016

International Covenant on Civil and Political Rights

Distr.: General
7 April 2021

Original: English

Advance unedited version

Human Rights Committee

Decision adopted by the Committee under the optional protocol concerning communication No. 2752/2016*,**

Communication submitted by:	S.M. and S.V. (represented by counsel Marie Louise Frederiksen)
Alleged victims:	The authors
State party:	Denmark
Date of communication:	11 March 2016 (initial submission)
Document references:	Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 18 March 2016
Date of adoption of decision:	6 November2020
Subject matter:	Deportation to Italy
Procedural issue:	Level of substantiation of claims
Substantive issues:	Risk of torture, cruel, inhuman or degrading treatment or punishment
Article of the Covenant:	7
Article of the Optional Protocol:	2

1.1 The authors of the communication are a married couple, S.M, born on 30 May 1979, and S.V., born on 6 August 1983. They are Iranian nationals. They sought asylum in Denmark but their application was rejected on the grounds that they already had a valid residence permit in Italy, and thus Italy served as their first country of asylum. Their deportation to Italy was scheduled for 17 March 2016. The authors claim that, by forcibly deporting them to Italy, Denmark would violate their rights under article 7 of the Covenant. The Optional Protocol entered into force for Denmark on 23 March 1976. The authors are represented by counsel.

1.2 On 18 March 2016, pursuant to rule 94 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided not to issue a request for interim measures.

* Adopted by the Committee at its 130th session (12 October–6 November 2020).

** The following members of the Committee participated in the examination of the communication: Tania Abdo Rocholl ,Yadh Ben Achour, Arif Bulkan, Ahmed Amin Fathalla, Schuichi Furuya, Christoph Heyns, David Moore, Bamariam Koita, Marcia V.J Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany, Hélène Tigroudja, Andreas Zimmermann and Gentian Zyberi.

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The facts as submitted by the authors

2.1 The authors met in Teheran, Iran in 2002. They converted to Christianity in the same year. They studied at the university and were politically active against the regime. Between 2002 and 2009, they were summoned to approximately six conversations with the university's intelligence agency because of their political opinions and religion. In June 2009, they participated in a demonstration at the Teheran University, after which they were arrested. The first applicant, S.M., was detained for four days and subjected to torture. The second applicant, S.V. was detained for one night and subjected to violence by police officers. In February 2011, S.M. was arrested again for planning a demonstration and detained for six days. During his detention, he was subjected to physical and mental abuse and threatened with sexual abuse.

2.2 On 7 June 2011, the authors left Iran illegally because of the persecution for their political activity against the regime and their conversion to Christianity. They entered Italy on 16 June 2011. They were granted asylum on 16 August 2012 and issued a residence permit valid until 15 August 2017.

2.3 In Italy, the authors were initially offered accommodation in the asylum centre for approximately one year, where the conditions were extremely poor. They started learning Italian and carried out a paid internship for six months. However, after 13 months they were asked to leave the asylum centre. With the little money they gained during their internship and from selling their personal jewellery, they managed to rent an apartment for almost a year. They approached authorities to get assistance, as well as UNHCR and NGOs, but to no avail.

2.4 The authors left Italy as they could not support themselves anymore and arrived in Denmark, where they applied for asylum on 5 March 2014.

2.5 On 6 August 2014, the Danish Immigration Service dismissed the authors' asylum application because they had a valid residence permit in Italy, and thus Italy could serve as the applicants' first country of asylum. On 21 November 2014, the Danish Refugee Appeals Board upheld that decision.

2.6 On 13 January 2015, the authors were deported to Italy. Upon their arrival, the Italian authorities detained the authors for four hours and questioned them. According to the authors, the police informed them that their asylum case in Italy has ceased because of the lapse of time of ten months and eight days since they left the country. The authors spent the night at the airport and were returned to Denmark. In Denmark, they requested that their asylum case be reopened.

2.7 On 8 March 2016, the Refugee Appeals Board dismissed the authors' request in view of the fact that they failed to present new information that have not already been assessed by the Board before and that would warrant the reopening of their case. In addition, the Refugee Appeals Board further observed that the authors failed to provide reasons why they were refused to enter Italy and substantiate their claim.

The complaint

3.1 The authors submit that, by forcibly returning them to Italy, the Danish authorities would violate their rights under article 7 of the Covenant.

3.2 The authors' complaint is two-fold. Firstly, they submit that the Refugee Appeals Board failed to undertake an individualized assessment of the risk they would face upon their return to Italy and to establish whether they would be treated in accordance with the recognized basic human rights standards. Secondly, the Refugee Appeals Board failed to assess whether the authors could actually enter Italy and remain there until a durable solution was found.

3.3 In this connection, the authors allege that the lack of personal integrity and security for refugees in Italy would inevitably leave them in a situation which violates their rights under article 7 of the Covenant. They state that in the assessment of whether the conditions in Italy amount to inhuman and degrading treatment, the fact that the authors are socio-economically more vulnerable in the country where they were granted asylum, compared to

their home country, should be taken into account. They note that even if they enjoyed refugee status in Italy, the latter could not provide them with a durable solution for their stay. They further observe that they would not be eligible for social benefits upon their return to Italy and that they exhausted all avenues for accommodation. They were therefore expected to provide for themselves.

3.4 To support their arguments, the authors rely on several reports concerning the situation of persons with international protection in Italy. In this connection, they cite for example the October 2013 report of the Swiss Refugee Council, which revealed that reception conditions in Italy and basic human standards for refugees with valid or expired residence permits do not comply with international obligations of protection.[1] They further highlight among other things the limited integration prospects for beneficiaries of international protection in Italy and the limited capacities of national authorities to secure adequate accommodation to all those in need. According to other reports, hundreds of migrants, including asylum seekers, live in abandoned buildings in Rome and have limited access to public services.[2] In addition, the authors refer to the Executive Committee of the Programme of the United Nations High Commissioner for Refugees. The latter stated in its conclusion No. 58 that the principle of the first country of asylum should be applied only if the applicant is permitted to remain there upon return and is treated in accordance with recognized basic human standards until a durable solution is found.

3.5 The authors also refer to the Committee's Views adopted in *Jasin et al. v. Denmark,*[3] which concerned a deportation of a Somali national to Italy in violation of article 7 of the Covenant. On that occasion, the Committee considered, in particular, that the State party had to undertake an individualized assessment of the risk that the author would face upon return to Italy. The Committee noted that the State party should not rely on general reports and assumptions that, as the authors had benefited from subsidiary protection in the past, similar access to social benefits and entitlement to work would apply.

3.6 The authors finally submit that the Refugee Appeals Board failed to assess whether the Italian authorities recognized the authors' residence permit, which affected their entry and remain in Italy. They refer in particular to the Refugee Appeals Board's decision of 8 March 2016 in relation to their request to reopen their asylum case in Denmark. In that decision, the Refugee Appeals Board solely relied on information provided by the National police stating that their departure was still scheduled. Thus, it failed to assess the authors' individual situation whether they could actually enter Italy.

3.7 The authors have not submitted their communication to any other procedure of international investigation or settlement.

State party's observations on admissibility and the merits

4.1 On 16 September 2016, the State party submitted its observations on admissibility and the merits of the communication. The State party considers that the communication should be declared inadmissible, as the authors have failed to establish a prima facie case. The authors have failed to provide substantial grounds to demonstrate that they would be at risk of being subjected to inhuman or degrading treatment if returned to Italy.

4.2 The State party also submits that if the Committee holds the authors' complaint admissible, it should consider it unsubstantiated, as the authors have failed to establish that their deportation to Italy would constitute a violation of article 7 of the Covenant. The State party firstly reiterates the main facts of the case highlighting in particular the following: the authors entered Denmark on 5 March 2014 in possession of Italian refugee travel documents

[1] The author refers to Swiss Refugee Council, Reception Conditions in Italy: Report on the Current Situation of Asylum Seekers and Beneficiaries of Protection, in Particular Dublin Returnees (Bern, October 2013).

[2] UNHCR Recommendations on Important Aspects of Refugee Protection in Italy, July 2013; United States Department of State, "Italy 2014 Human Rights Report", Country Reports on Human Rights Practices for 2014.

[3] CCPR/C/114/D/2360/2014, 22 July 2015, para. 8.9-8.10.

and applied for asylum on the same date. On 6 August 2014, the Danish Immigration service refused their asylum application, which was further upheld by the Refugee Appeals Board on 21 November 2014 on the account that the authors could take up residence in Italy as the first safe country of asylum. The authors left Denmark for Italy voluntarily on 13 January 2015 and re-entered Denmark on the following day stating that the Italian authorities had refused them entry to the country. The State party further submits that the authors purportedly destroyed their alien's passports[4] when refused entry to Italy. Subsequently, on 11 February 2015 the authors requested the reopening of their asylum case, which was rejected by the Refugee Appeals Board on 8 March 2016. On 11 March 2016, the authors once again requested the reopening of the asylum proceedings and on the same date submitted the communication to the Committee. The authors were deported to Italy on 17 March 2016 after the Refugee Appeals Board rejected their two requests for reopening of their asylum case. The State Party highlights the conclusions of the Refugee Appeals Board's decisions of 8 March 2016 and 16 March 2016 on rejection to reopen the authors' asylum case, in particular that the authors had failed to produce any evidence or details of the alleged refusal of the Italian authorities to let them enter.

4.3 The State party further reiterates the main findings of the domestic authorities, particularly the Refugee Appeals Board's decisions of 21 November 2014, 8 March 2016 and 16 March 2016. It also elaborates on the application of the relevant domestic law[5] and the procedure before the Refugee Appeals Board, in particular on the Convention status, the protection status, the principle of non-refoulement and the principle of the country of first asylum.

4.4 The State party claims that the authors also failed to provide any essential new information or views beyond the information already relied upon in the context of their asylum proceedings, as reflected in the decisions of the Refugee Appeals Board of 21 November 2014, 8 March 2016 and 16 March 2016. The State party submits that throughout the asylum procedure, the authorities of the State party have considered (a) that the authors fall within section 7 (1) of the Aliens Act, because of a well-founded fear of being subjected to specific, individual persecution of a certain severity if returned to their country of origin; and (b) that the authors have been granted refugee status in Italy. The Board refused to grant asylum to the authors under section 7 (3) of the Aliens Act insofar as Italy could serve as the authors' first country of asylum. In that connection, it emphasizes that one of the conditions to refuse a residence permit to an asylum seeker is the fact that he/she has obtained or is able to obtain protection in the first country of asylum. The State party further submits that the Refugee Appeals Board applies protection against refoulement and assesses whether the asylum seeker can enter and reside lawfully in the country of first asylum, and whether his or her integrity and safety would be protected in that country, when considering whether a country can serve as the first country of asylum. The concept of protection also includes certain social and financial elements, since asylum seekers must be treated in accordance with the basic human rights standards. However, it cannot be required that asylum seekers have exactly the same social and living standards as the receiving country's own nationals. The concept of protection requires that asylum seekers must enjoy personal safety when they enter and stay in the country serving as the country of first asylum. The State party further observes that Italy is bound by the European Convention on Human Rights and international human rights norms and standards or Covenant on Civil and Political Rights.

[4] Refugee Appeals Board decision of 8 March 2016 refers to Italian residence permit.

[5] Danish Alien Act.

4.5 The State party further states that the domestic authorities made a thorough assessment of the authors' statements, the general background information available on conditions in Italy and the applicable international case-law. Regarding the authors' arguments concerning their situation falling short of minimum living standard in case of their return to Italy, their ineligibility for social benefits and their exhaustion of all possibilities for accommodation, the State party submits that the authors did not specifically substantiate their statement or render probable such information. They were further inconsistent with the Board's assessment of the background information available on the living conditions of recognized refugees in Italy as well as with the authors' own experiences.

4.6 The State party refers to the decision on inadmissibility of the European Court of Human Rights in *Samsam Mohammed Hussein and others v. the Netherlands and Italy,*[6] which concerned a single Somali mother and her two young children, who had been issued a residence permit for the purpose of subsidiary protection in Italy, where they could be returned. The State party refers to the Court's finding that the mere return to a country where one's economic position would be worse than in the expelling State party was not sufficient to meet the threshold of ill-treatment proscribed by article 3 of the European Convention on Human Rights.[7] Moreover, the State party highlights the Court's reasoning that, in the absence of exceptionally compelling humanitarian grounds against removal, the fact that the applicant's material and social living conditions would be significantly reduced if he or she were to be removed from the contracting State, was not sufficient in itself to give rise to a breach of article 3.[8]

4.7 With reference to the actual conditions in Italy, the State party refers to the Court's considerations in the above-mentioned case that "while the general situation and living conditions in Italy of asylum seekers, accepted refugees and aliens who have been granted a residence permit for international protection or humanitarian purposes may disclose some shortcomings […] it has not been shown to disclose a systemic failure to provide support or facilities catering for asylum seekers as members of a particularly vulnerable group of people, as was the case in *M.S.S. v. Belgium and Greece*".[9]

4.8 The State party in particular notes that a person recognized as a refugee under the Refugee Convention in Italy would be provided with a five-year renewable residence permit allowing its holder to work, obtain a travel document, apply for family reunification and benefit from the general schemes for social assistance, health care, social housing and education. Similarly, an alien who was recognized as a refugee was able to apply for the renewal of his or her residence permit upon the re-entry even if the residence permits had lapsed. In this connection, the State party recalls the decision of the Board of 21 November 2014, which established that the authors have been granted refugee status in Italy and had a residence permit expiring on 15 August 2017. In addition, the State party submits that the national authorities consulted the Italian authorities in the summer of 2015 and subsequently in 2016 and the latter confirmed that an alien whose residence permit had expired could lawfully enter Italy for the purpose of having his or her residence permit renewed. The alien would only be asked to present himself or herself at the issuing police immigration department and submit a request for renewal. Therefore, the State party concludes that the authors were able to enter Italy and submit a request for renewal of their residence permits at the time of their deportation to Italy on 17 March 2016.

4.9 The State party notes the rise in number of people entering Italy illegally since the adoption of the above-mentioned decision by the Court, which has also affected the reception conditions. However, it concludes that in general, Italy can still serve as the first country of asylum for persons who have been granted international or subsidiary protection.

4.10 The State party refers to the judgment delivered by the Grand Chamber of the European Court of Human Right in *Tarakel v. Switzerland*,[10] which concerned a transfer of

[6] See *Samsam Mohammed Hussein and others v. the Netherlands and Italy* (application No. 27725/10), decision adopted on 2 April 2013.

[7] Ibid., para. 70.

[8] Ibid., para. 71.

[9] Ibid., para. 78.

[10] Application No. 29217/12, judgment of 4 November 2014.

an Afghan couple with six children who applied for asylum in Italy and their asylum procedure was still pending at the material time. The Court on that occasion considered the reception system for asylum-seekers in Italy and the lack of Swiss authorities' sufficient assurances about the facility of destination adapted to the age of the children in the absence of detailed and reliable information in that regard. The Court found a violation of Article 3 of the Convention should the Swiss authorities transfer the family to Italy without having first obtained individual guarantees from the Italian counterparts to take adequate charge of them and keep them together. The State party submits that the *Tarakel* judgment, which concerned a family with the status of asylum seekers in Italy, does not deviate from the findings in previous case-law, including the *Samsam Mohamed Hussein* decision, on individuals and families with actual residence permit in Italy. Furthermore, it cannot be inferred from the *Tarakel* judgment that States are required to obtain individual guarantees from the Italian authorities before deporting individuals or families in need of protection who have already been granted residence in Italy.

4.11 The State party further relies on other two decisions of the European Court of Human Rights, *A.T.H. v. the Netherlands* (application no. 54000/11) and *S.M.H. v. the Netherlands* (application no. 5868/13) to support its argument about the acceptable reception conditions in Italy for the purpose of the authors' deportation. In both cited cases, the Court found that the risk of hardship was not sufficiently real and imminent and of such a severe nature to fall within the scope of Article 3, if the applicants were returned to Italy. In addition, the background information invoked by the authors in their communication[11] does not contain any new information on the general conditions in Italy for persons already granted protection that was not available to the European Court of Human Rights when it ruled in *Samsam Mohammed Hussein and others* that the return to Italy of the applicants in that case would not amount to treatment proscribed by article 3 of the European Convention on Human Rights.

4.12 With regard to the authors' previous stay in Italy, the State party referred to the conclusions reached by the Refugee Appeals Board. In particular, it notes that the authors benefited from the stay at the reception centre, they had never lived on the street, they were in good health, they were well educated and able to write and read Italian. They are both considered resourceful persons having potential of creating an acceptable standard of living in Italy. Their assertion that they were unable to find jobs during their stay in Italy could not lead to a different assessment. Furthermore, the authors had valid residence permits and failed to provide any evidence or further information to support their assertion that they had been refused readmission to Italy. The State party further refers to the Refugee Appeals Board's decision of 8 March 2016, which recapitulates the common practice of the National Police informing the Refugee Appeals Board, if deportation to a country of first asylum is deemed futile. In the authors' case, the National police informed the Refugee Appeals Board about the authors' planned deportation on 18 February 2015, which was suspended due to the authors' request for reopening of their asylum case. On 22 June 2015 the National Police informed the Refugee Appeals Board that the authors had been invited for a meeting with the police on 1 July with the aim to determining their possible deportation to Italy. Subsequently, the National police notified the Refugee Appeals Board on 12 February 2016 about the planned deportation of the authors to Italy and the latter were deported on 17 March 2016.

4.13 The State party further differentiates the present case from the Committee's previous views adopted in *Jasin et al. v. Denmark* (communication no. 2360/2014) and *Abdilafir Abubakar Ali et al. v. Denmark* (communication No. 2409/2014). Unlike in the first cited case, which concerned a mother with three minors with an expired residence permit in Italy, the authors in the present communication are two resourceful adults with international protection and lawful residence permit in Italy. In addition, in both cited cases, the Committee reproached the State party for its failure to analyse sufficiently the authors' personal experiences in Italy among other things, which was not the case of the authors in the present communication.

[11] In particular the Swiss Refugee Council report of October 2013, the 2013 UNHCR Recommendations on Important Aspects of Refugee Protection in Italy and the June 2015 report published by the United States Department of State.

4.14 In addition, the State party compares the present case to the Committee's inadmissiblity decision in *A.A.I. and A.H.A. v. Denmark (*communication No. 2402/2014). It notes in particular that the subsidiary protection and residence permits granted to a married couple with two minors in Italy have enabled them to return to Italy, as their first country of asylum, even if their residence permits had expired during their stay in Denmark. In the cited case, the authors drew on their previous experience, in particular on the Italian authorities' failure to assist them with finding a temporary shelter, work or more stable housing, which subsequently resulted in them being homeless. The State party highlights the Committee's conclusion that those authors' previous experience in Italy did not substantiate their claim of being at risk of cruel, inhuman or degrading treatment if returned to Italy.

4.15 In conclusion, the State party submits that the authors' deportation to Italy would not entail a violation of article 7 of the Covenant. The communication has not brought to light any new, specific information about the authors' situation. The authors merely disagreed with the assessment of their specific circumstances made by the Refugee Appeals Board and its conclusions thereof. In their communication of 11 March 2016, the authors did not provide any new or specific details about their situation. They did not identify any irregularities in the domestic authorities' decision-making process or a failure of the Refugee Appeal's Board to consider any risk factor. In this connection, the State party relies on the Committee's established jurisprudence[12] and submits that considerable weight should be given to the assessment conducted by the State party unless it is found that the evaluation was clearly arbitrary or amounted to a denial of justice.

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

5.1 In their comments of 19 January 2017, the authors maintain that their return to Italy constituted a breach of article 7 of the Covenant and submit that the State party has failed to provide sufficient grounds to demonstrate that the communication is manifestly ill-founded.

5.2 They submit that following their deportation to Italy on 17 March 2016, the Italian authorities failed to provide them with any assistance. They claim that they were ineligible for social benefits. Instead, they had to rely on the support of their fellow believers in Rome. They submitted a letter from the coordinator of Jehovah's Witnesses to support their statements. The authors submit that their case is not a question of their material and social conditions being reduced, but simply a question of access to a minimum standard of living conditions, which distinguishes their situation from the case of *Samsam Mohammed Hussein and Others v. the Netherlands*, cited by the State party. They submit that they tried to find a job but due to the lack of prospects, they were not able to create acceptable standard of living in Italy and left again.

5.3 In addition, the authors refer to the Committee's views in *Jasin et al. v. Denmark* and emphasize that although the assessment of the risk faced by them must be individual, the State party relied instead on general reports and the assumption of the authors' resources.

Additional submission from the State party

6.1 On 12 June 2017, the State party provided further observations to the Committee, generally reiterating the facts of the case.

6.2 The State party observes that the authors were not compelled to live on the street during their second stay in Italy, which lasted about six months, that is from mid-March 2016 until they left again to look for job opportunities in Europe, including Denmark and Sweden.

6.3 The State Party further contests the authors' assertion that they are ineligible for social benefits. In this connection, they cite several sources,[13] which suggest that a person with a

[12] *P.T. v. Denmark* (CCPR/C/113/D/2272/2013), para. 7.3; *K. v. Denmark* (CCPR/C/114/D/2393/2014), paras. 7.4–7.5; *N. v.* Denmark (CCPR/C/114/D/2426/2014), para. 6.6; *Mr. X and Ms. X v. Denmark* (CCPR/C/112/D/2186/2012), para. 7.5; and *Z. v. Denmark* (CCPR/C/114/D/2329/2014), para. 7.4.

[13] ECHR, *Samsam Mohammed Hussein and Others v. the Netherlands,* application no. 27725/10, judgment of 2 April 2013, para. 37*; Reception conditions in Italy: Report on the current situation of asylum seekers and beneficiaries of protection, in particular Dublin returnees,* published by the Swiss Refugee council in August 2016.

protection status in Italy enjoy the same rights as native Italians, including the entitlement to work, to benefit from general schemes for social assistance, health care, and social housing among other things.

6.4 Finally, the State party observes that the authors, aside from their statements, have failed to provide any proof that they approached the Italian authorities upon their return in 2016 or that the latter refused to assist them. They were also offered Italian language classes during their first stay in Italy, they had a paid internship and a place to live. The State party reiterates that the authors are well-educated, hence resourceful persons with a potential to create acceptable standard of living in Italy. Just because the authors were unable to find job in Italy during a relatively short stay could not lead to a different assessment. The State party maintains that Italy can serve as the authors' first country of asylum and their deportation was not contrary to article 7 of the Convention.

Issues and proceedings before the Committee

Consideration of admissibility

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

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

7.3 The Committee notes the authors' claim that they have exhausted all effective domestic remedies available to them, and that the State party has not disputed this claim. Accordingly, the Committee considers that it is not precluded by article 5 (2) (b) of the Optional Protocol from considering the present communication.

7.4 The Committee notes the State party's brief argument that the authors' claims with respect to article 7 should be held inadmissible, as the authors have failed to establish a *prima facie* case and to provide substantial grounds to demonstrate that they would be at risk of being subjected to inhuman or degrading treatment if returned to Italy. The Committee notes the authors' contentions that the State party has failed to substantiate sufficiently why the authors' communication would be considered manifestly ill-founded. The Committee further notes the authors' contention that the Refugee Appeals Board failed to undertake an individualized assessment of the risk they would face upon their return to Italy. The Committee also notes the authors' consideration that the State party's argument about them being well-educated, thus resourceful persons, who are able to pursue employment, is purely theoretical. The authors in fact contest it by noting that they could not create for themselves an acceptable standard of living in Italy despite several attempts, which should provide reason to believe that it was not in fact possible. In addition, the Committee observes the authors' contention that the Refugee Appeals Board failed to assess whether the authors could actually enter Italy and remain there until a durable solution was found.

7.5 The Committee recalls its general comment No. 31 (2004),[14] in which it referred to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when 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. The Committee further recalls its jurisprudence,[15] which requires the States parties to assess individualized circumstances in addition to general conditions in the receiving country to refute the conditions constituting cruel, inhuman or degrading treatment in violation of article 7 of the Covenant upon the persons' deportation. Those circumstances include factors that

[14] See the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 12.

[15] *Jasin et al. v. Denmark,* para. 8.3; see also for example *Pillai et al. v. Canada* (CCPR/C/101/D/1763/2008), para. 11.4; and *Abdilafir Abubakar Ali and Mayul Ali Mohamad v. Denmark*, para. 7.8.

increase the vulnerability of such persons and that could transform a situation that is tolerable for most into an intolerable one for others. They should also take into account the previous experiences of the individuals in the first country of asylum, which may underscore the special risks that they are likely to face if returned and may thus render their return to the first country of asylum a particularly traumatic experience for them.[16] However, the Committee recalls that it is generally for the organs of States parties to examine the facts and evidence of the case in order to determine whether such a risk exists,[17] unless it can be established that the assessment was clearly arbitrary or amounted to a manifest error or denial of justice.[18]

7.6 In the present case, the Committee notes that the national authorities considered the authors' personal circumstances in as far as these have been substantiated and these were not disputed by the authors, as follows: the authors were granted asylum in Italy on 16 August 2012; they received residence permit valid until 15 August 2017; they were provided with an initial accommodation for around 13 months, access to Italian language classes, and a six-month paid internship. In addition, the authors were able to rent a flat of their choice in Rome for almost a year. The Committee further observes that the Refugee Appeals Board considered that the authors were in good health, well-educated and thus resourceful persons, able to look for job opportunities in Italy upon their return. The Committee also notes that the authors were not homeless before their departure from Italy and did not live in destitution unlike the cases they relied on to illustrate their claim. In addition, it appears that the authors have not provided any proper information that would explain why they were not and would not be able to find a job in Italy or seek the protection of the Italian authorities in case of unemployment during their first or second stay in Italy. In this connection, the Committee observes that save for a letter of their fellow believer to support their claim about their difficulties in Italy, they merely repeated statements that they had been looking for a job and means to support themselves to no avail, and their request for support to the Italian authorities was unsuccessful. The Committee further notes the information submitted by the State party according to which refugees are entitled to benefit from the general schemes of social assistance, health-care, social housing and education under Italian domestic law. The authors disagree with the factual conclusions of the State party's authorities, but the information before the Committee does not show that those findings are manifestly arbitrary.[19] Accordingly, the Committee considers that the mere fact that the authors assert to be confronted with serious difficulties upon return by itself does not necessarily mean that they would be in a special situation of vulnerability and in a situation significantly different to many other refugee families, which could be sufficient to bring article 7 of the Covenant into play.

7.7 In addition, the Committee notes the authors' claim about the lack of assessment by the national authorities of their actual possibility to enter and remain in Italy, in particular the contested decision of the Refugee Appeals Board on the reopening of their asylum claim. In this connection, the Committee notes the authors' statement that upon their entry to Italy on 13 January 2015, the police informed them that their asylum case in Italy had ceased because of the lapse of time they left the country. The Committee also notes that the Refugee Board's decision of 8 March 2016 translated and provided by the State party stated that the authors purportedly destroyed their Italian residence permits when refused entry to Italy (see para. 4.2). The Committee also observes that the authors have not provided any additional explanation relating to this issue. In any case, the Committee notes the information provided to the State party by the Italian authorities in 2015 and 2016, according to which an alien who has been granted residency in Italy as a recognized refugee or who has been granted protection status may submit a request to renew his or her expired residence permit upon re-entry into Italy. In addition, the Committee notes the decision of the Refugee Appeals Board of 8 March 2016, which referred to the communication it had with the National police on 17 February 2015 about the authors' suspended deportation and the follow-up communication

[16] E.g., *Y.A.A. and F.H.M. v. Denmark*, para. 7.7.

[17] *Pillai et al. v. Canada*, paras. 11.2 and 11.4; and *Z.H. v. Australia* (CCPR/C/107/D/1957/2010), para. 9.3.

[18] E.g., *K. v. Denmark*, para. 7.4.

[19] E.g. *X. v. Denmark* (CCPR/C/113/D/2523/2015), para. 4.4; *A.H.S. v. Denmark* (CCPR/C/119/D/2473/2014), para. 7.6.

on 22 June 2015 (para. 4.12). According to this information, the National police scheduled a meeting with the authors on 1 July with a view to determining the possibility of their deportation, after they returned to Denmark on 14 January 2015. The Committee also notes that no further information has been received from either the State party or the authors as to whether this meeting took place and what was the outcome. The Committee however notes the State party's submission about the follow-up information received by the Refugee Appeals Board from the National police on 12 February 2016 that the latter still planned the authors' deportation to Italy. The Committee further notes that the authors could eventually return to Italy and stay there legally until they left again (paras. 5.2 and 6.2). The Committee further notes that the authors have not pointed to any procedural irregularities in the decision-making procedure of the Danish Immigration Service or the Refugee Appeals Board. Nor have they sufficiently substantiated that the decision to return them to Italy as their first country of asylum was manifestly unreasonable or arbitrary in nature.[20] In view of the above and in the absence of any other pertinent information on file, the Committee considers that the authors' claims under article 7 of the Covenant cannot be seen as having been sufficiently substantiated for the purposes of admissibility.

8. The Committee therefore decides:

(a) That the communication is inadmissible under article 2 of the Optional Protocol;

(b) That the decision be shall be communicated to the State party and to the authors.

[20] E.g. *A.A.I. and A.H.A.,* para. 6.6.