



# International Covenant on Civil and Political Rights

Advance unedited version

Distr.: General  
10 November 2016

Original: English

## Human Rights Committee

### Decision adopted by the Committee under the Optional Protocol, concerning Communication No. 2215/2011<sup>\*,\*\*</sup>

<i>Communication submitted by:</i>	I.A.K. (represented by counsel, Niels-Erik Hansen)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Denmark
<i>Date of communication:</i>	1 June 2011 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 9 November 2011 (not issued in document form)
<i>Date of adoption of Views:</i>	3 November 2016
<i>Subject matter:</i>	Deportation from Denmark to Iraq
<i>Procedural issues:</i>	Failure to sufficiently substantiate allegations; incompatibility <i>ratione materiae</i>
<i>Substantive issues:</i>	Right to life; torture, cruel, inhuman or degrading treatment or punishment;
<i>Articles of the Covenant:</i>	2, 6, 7, 13, 14 and 26
<i>Articles of the Optional Protocol:</i>	2; 3

1.1 The author of the communication is Mr I.A.K., Iraqi national born [in] 1980. He claims that his removal to Iraq by the State party would violate his rights under articles 2, 6, 7, 13, 14 and 26, of the International Covenant on Civil and Political Rights (the Covenant).<sup>1</sup> The Optional Protocol entered into force for Denmark on 23 March 1976. The author is represented by counsel.

\* Adopted by the Committee at its 118<sup>th</sup> session (17 October-4 November 2016).

\*\* The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Lazhari Bouzid, Sarah Cleveland, Olivier de Frouville, Ahmed Amin Fathalla, Yuji Iwasawa, Ivana Jelic, Photini Pazartzis, Mauro Politi, Sir Nigel Rodley, Victor Manuel Rodríguez-Rescia, Fabián Omar Salvioli, Yuval Shany and Margo Waterval.

<sup>1</sup> The author's claims regarding articles 2, 13, 14 and 26, of the Covenant were raised by the author in

1.2 On 9 November 2011, pursuant to rule 92 of the Committee's rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, denied the author's request for interim measures to suspend his deportation to Iraq.

**Facts as presented by the author**

2.1 The author was born in Baghdad and professes Shia Muslim faith. He claims that he attended school for 12 years and was a trained electrician. However, he worked as taxi driver and as a hod carrier for his father, who was a developer. He also served with the armed forces in the Republican Guard in Kirkuk for a total of 3 years and 2 months. He alleges that on 2 March 2010 he became a "member/sympathizer" of Hizb Al-Umma Al-Iraqiya (the Iraqi Nation Party-INP). The author submits that the INP is a Sunni Muslim party that wanted to restore the country and promoted equality between ethnic groups in Iraq; and that its leader had a good relation with Western countries, including Israel. This made the Shia Muslims to perceive members of the INP as traitors. The author did not hold any visible political responsibility and his participation in the INP was limited to put up about 50 election posters in Al-Huriya district, region of Baghdad on 3 or 4 March 2010, along with two other members of the party. In this circumstance, he was attacked and beaten by 7-8 persons that he could not identify but he believes that they were political opponents. He was hit with an iron baton on his back and legs. The author pushed the group leader so that he fell backward. The other members of the group threatened to kill him. After escaping from the scene, the author went to the hospital and then to the police, where he filed a complaint. Although the police registered it, the author never heard anything from the police about this event.

2.2 The author claims that he was victim of 3 other attacks by the same group. On 18 or 20 March 2010, a bomb was put in his car when he was visiting a friend, Mr A.F.K., who was an important member of the INP. He claims that when he returned to his car, he was told that unknown persons had placed an object under his vehicle. Upon his request, the police came with an explosive expert who deactivated the bomb. Afterwards, the police only asked him if he had enemies and prepared a report on the event, without taking further steps to investigate it.

2.3 On 5 June 2010, his father found a threatening letter, with a warning to those who collaborated with Jews, Zionists and Israelis. However, his name was not in the letter or in the envelope. He reported it to the police and to the armed forces (6<sup>th</sup> Regiment). The army kept the letter and informed the author that they would carry out an investigation and recommended him to stay at home. The author moved to an uncle's home and then to his brother's home and started working as a taxi driver. However, he stopped this job since he was afraid of being attacked again.

2.4 On an unspecified date, the author moved back to his parents' home. He submits that on 4 December 2010, a bomb exploded in front of his parents' home destroying it. The author, his mother and younger brothers were in the house, but no one was killed. The author was not hurt, his mother broke an arm, and his brothers got some wounds on their face. Since the house was uninhabitable, his parents moved to the house of his sister. The author claims that although all the events were reported to the authorities, they did not provide any protection and were not able to identify the aggressors.

2.5 After remaining hidden at his uncle's house, on 07 February 2011 he went to Turkey with a false passport, leaving his parents and siblings in Iraq, who still lived there at the

---

his comments to the State party's observations of 11 July 2012 (see 5.3-5.4 below).

moment the communication was submitted to the Committee. Afterwards, he moved to Denmark, where he arrived on 11 February 2011, without holding an entry visa. He claims that he contacted a person to whom he paid 16000 USD to bring him to a safe country. This person brought the author to Denmark without requesting his consent. In fact, the author was told he would be taken to Belgium and he realized that he was in Denmark when someone informed him that he was in the Danish city of Sandholm.

2.6 On 15 February 2011, the author lodged a request for asylum before the Danish Immigration Service (DIS). He argued that he feared for his and his relatives' life if returned to Iraq since he was a member of the INP; and that between March 2010 and February 2011 he was victim of four attacks by unknown persons, presumably from a political group which was a political opponent.

2.7 On 25 March 2011, the DIS refused the author's application for asylum under section 7 of the Aliens Act. According to the author, the DIS found that his allegations were not coherent and credible. In this connection, it stated that his claim of being victim of political reprisals was not proportional to his political activities. The DIS further pointed out that the author submitted 20 photographs of a bombed house; however he failed to provide evidences that showed that this house belonged to his parents. The Danish authorities upheld that the author was not at risk of being prosecuted, subjected to torture, inhuman or degrading treatment or death penalty in Iraq. Further it noted that the author could live in the Kurdish autonomous area in northern Iraq where, according to the Immigration Service' fact-finding report (April 2010) and the Operational Guidelines of the UK Home Office (October 2010), any Iraqi citizen might reside safely. The DIS forwarded its decision to the Refugee Appeals Board (RAB) for final review of the author's case.

2.8 At the hearing held by the RAB, the author noted that after receiving the refusal from the DIS, he contacted the INP by phone and asked them to send a confirmation of his membership; and that he had received the INP's confirmation electronically by email. According to the RAB, the document dated 10 May 2011, showed the name and address of the headquarters of the party and that the author was an active member of the party. It also had a stamp and the name of the secretary-general. When asked by the RAB, the author stated that, by its confirmation, the party meant that he had been active when he was residing in Iraq and that he was not active now.

2.9 On 18 May 2011, the RAB confirmed the DIS's decision, and ordered the author to leave voluntarily Denmark within 7 days. The RAB found that the author had not, in a coherent and credible manner, been able to account for his alleged activities for the INP and for the assaults on him and the attempts on his life and thus the risk to which he would be exposed if returned to Iraq. In this connection, it pointed out, inter alia, that the author stated in the asylum application form that he was a member of the INP, after which he stated at the interview with the DIS that he was not a member of the party, but had merely handed in an application for membership, and he finally stated before the RAB that he was a member of the party and still was. Likewise, the RAB concluded that it was not credible that the author, whose active membership only lasted for 7 days and only consisted in anonymously helping to hang up election posters, would have been the target of such comprehensive retaliation from political opponents. In that connection, it pointed out that according to his statement, the author only sustained minor injuries at the assault on 3 or 4 March 2010. Moreover, he had been unable to identify the persons to be behind the assassination attempts and the bomb explosion on 4 December 2010, and he merely assumed that they were political opponents. He was also unable to explain how these persons managed to identify him, his car and his parents' residence.

2.10 The author submits that he has exhausted all domestic remedies. Pursuant to section 56 (8) of the Aliens Act, asylum seekers are not allowed appealing the Refugee Appeal

Board's decision to the Danish Courts, which has been confirmed several times by the Danish Supreme Court, not being any other remedy available at domestic level.

### **The complaint**

3.1 The author argues that his deportation to Iraq by the State party, together with the circumstances surrounding his situation in Iraq prior to his departure, would constitute a violation of his rights under articles 6 and 7 of the Covenant.

3.2 The Danish authorities did not assess adequately the risk he would be subject to if returned to Iraq. The author claims that he was never arrested or detained by the authorities; however, his life was threatened four times due to his membership to the INP. He points out that the State party refused his claims only because his participation in the INP was limited to put up posters for a few days, without taking into account that the Iraqi authorities failed to provide him with protection, by investigating the attacks and identifying the aggressors. In this connection, the author claims that the Danish authority failed to take into account the photographs that show how his parents' house was damaged by the bomb of 4 December 2010, and the document issued by the INP that indicates that he was a member of the party. Furthermore, the State party's refusal is contrary to UNHCR's briefing notes on forced return to Iraq.<sup>2</sup>

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

4.1 On 8 May 2012, the State party provided its observations on the admissibility and merits of the communication. It maintains that the communication should be declared inadmissible for non-substantiation. Should the Committee declare the communication admissible, the State party maintains that the author's deportation to Iraq would not be contrary to the Covenant.

4.2 The State party maintains that during the asylum proceedings, the author gave various contradictory statements concerning his affiliation with the INP in March 2010. For instance, he stated in the asylum registration report that he was a member of the party for ten days only. In the asylum application form, however, he stated that he had been a member of the party from between 1 and 7 March 2010. At the interview with the DIS on 18 March 2011, he stated that he had become a member of the INP on 2 March 2010. Confronted with his statements, the author stated that he could not remember whether he had filled in the party's application form on 1 or 2 March 2010. He was subsequently a member of the party. To the question of whether his application was to be assessed by somebody, the author replied in the affirmative. He had not become a member of the party immediately, but had merely been recorded as an applicant. To the question of why he had stated that he had been a member for ten days when he had only been an applicant, and when the period was in fact 1 to 7 March 2010, the author stated that the last three days he had tried to contact his friend, who was number two or three in the party and had given the author the application form. Then he stated that he had not been active in the INP since 7 March 2010. At the hearing of the RAB on 18 May 2011, the author stated that he had not resigned from the party, and if he were in Iraq, he would still appear a member of the party. Following the refusal of his application by the DIS, the author obtained a document dated 10 May 2011 that indicated that he was a member of the INP.

4.3 Likewise, the author stated in the asylum registration report that he was hanging up election posters around town together with a friend in early March 2010 when they were assaulted by 12 persons; that after the assault he went to the hospital and then reported the

---

<sup>2</sup> The author refers to the UNHCR's briefing notes, "UNHCR concerned at planned forced return from Sweden to Iraq", 18 January 2011.

incident to the police. At the RAB hearing, he stated that he hung up about 100 posters. After the assault, he went to the police station and reported the incident, and then he went to the hospital. Confronted with his statement in the asylum application form to the effect that 12 persons participated in the assault, but that he had stated to the DIS that 7 or 8 persons participated, the author stated at the RAB's hearing that he did not remember how many persons participated in the assault.

4.4 As to the author's allegation about the car bomb in March 2010, the State party points out that at the interview with the DIS he stated that he did not know how the perpetrators knew that it was his car when they did not know his name. To the question of whether the author's friend, who was number two or three in the party, had been the target of murder attempts, the author stated that his friend had received threats, but that he had not been the target of murder attempts. As to the author's allegation about the threatening letter left in his parent's home in June 2010, at the interview with the DIS, the author stated that he had no idea how the perpetrators would know where he lived when they did not know his name. To the question of why somebody would want to harm him when his political profile and his political work had been so limited, the author stated that he assumed that it was because he had pushed the assailants' leader in connection with the assault on 3 or 4 March 2010. The State party further notes that the author did not explain in detail why more than 2 months passed after the incident in December 2010 before he left Iraq.

4.5 The State party points out that the RAB found that the author had not, in a coherent and credible manner, been able to account for his alleged activities for the party or for the assaults and assassination attempts aimed at him and thus the risk to which he would be exposed upon his return to his country of origin. In this connection the RAB pointed out the inconsistencies of the author's accounts regarding its alleged membership to the INP –about his joining the INP, the duration of his membership and of whether he remains a member of the party- and the events that he allegedly went through in Iraq prior to his departure due to his affiliation to this party (see para 2.9, 4.2-4.4 above). The State party further submits that the question of whether the author has been a member of the INP, including for what period, is thus arguable.

4.6 The State party provides a detailed description of the asylum proceedings under the Aliens Act and the RAB decision making process and functioning.<sup>3</sup>

4.7 Should the Committee declare the communication admissible, the State party maintains that articles 6 and 7 of the Covenant would not be violated if the author is returned to Iraq. The RAB conducted a comprehensive and thorough examination of the evidence in the case. The RAB made its decision under section 7(2) of the Aliens Act on the basis of a specific and individual assessment of the author's motive for seeking asylum combined with the background knowledge on the general situation in Iraq and the specific details of the case.

4.8 The State party maintains that the author is in fact trying to use the Committee as an appellate body to have the factual circumstances advocated in support of his claim of asylum reassessed by the Committee. In this regard, the State party submits that the Committee must give considerable weight to the findings of the RAB, which is better placed to assess the findings of fact in the author's case.

4.9 The State party submits that the RAB included all relevant information in its decision of 18 May 2011, including the document produced to confirm the author's membership of the Iraqi Nation Party. In this connection, it points out that the RAB's

---

<sup>3</sup> See communication No. 2186/2012, *X and X v. Denmark*, Views adopted on 22 October 2014, para. 4.8-4.11.

omission to explicitly refer to a specific document in the reasoning of its decision does not mean that the document was not included in the basis of its examination of the case. The documents produced by the author were referred to at the RAB's hearing and were included in the Board's deliberations, but the RAB rejected the author's statement about his reason for applying for asylum as the statement seemed incoherent, expansive and not credible. As to the author's reference to UNHCR's recommendations, the State party maintains that UNHCR's recommendations are an essential part of the background information when a specific and individual assessment of each case is made.

4.10 The State party maintains that it generally appears unlikely that the author, whose active membership only lasted for seven days and only consisted in anonymously helping to hang up election posters, would have been the target of such comprehensive retaliation from political opponents as described by him during the asylum proceedings. In that connection, it relies on the assessment made by the RAB to the effect that it does not appear credible that the author, as a rank-and-file party member and in light of his very limited political activities, would have been persecuted to such a degree as stated by the author.

4.11 The State party points out that the author has also changed and added further details to his statement on other points in connection with the proceedings before the Danish authorities. Neither for the asylum registration report nor in the asylum application form did the author thus state that he had sought the protection of the Iraqi authorities. By contrast, the author stated in detail at the interview with the DIS and at the RAB hearing how he had reported both the assassination attempts and the threatening letter to the police. As to the author's allegation that as a Shia Muslim and member of the Sunni Muslim party, he was considered a traitor by other Shia Muslims, the State party submits that during the proceedings the author did not state at any time that he risked persecution due to his religious belief upon his return to Iraq.

#### **Author's comments on the State party's observations**

5.1 On 11 July 2012, the author submitted his comments on the State party's observations and reiterated his allegations of violation of articles 6 and 7 of the Covenant. At the moment the author's comments were submitted to the Committee, the author continued staying in the State party's territory.

5.2 The author argues that the State party also violated his rights under articles 13 and 14 of the Covenant, since the RAB's denial of his asylum request cannot be appealed before a court. He also argues that one out of the three members of the RAB is an employee of the Ministry of Justice. Although this member may act in an impartial and independent manner, the asylum seeker may perceive him otherwise.

5.3 The RAB's decision and its procedure constitute a discrimination against asylum seekers, in violation of articles 2 and 26, of the Covenant. In this connection, the author points out that under the State party's law decisions by administrative bodies, except the RAB's ones, can be appealed before courts.<sup>4</sup> Moreover, since an asylum application is examined and decided by the DIS in very short period of time, it cannot be concluded that the DIS carries out a thorough examination of the request. Thus, in practice, the RAB is the first instance that closely examines the allegations submitted by an asylum-seeker.

5.4 The author claims that he had approximately 2-3 months to prepare his pleading for the RAB's hearing and that this reduced his possibility to provide evidence or offer witnesses within the asylum proceedings, violating his right to fair procedure. He further

---

<sup>4</sup> The author refers to the concluding observation of the Committee on the Elimination of all Forms of Racial Discrimination, CERD/C/DEN/CO/17, 19 October 2006, para. 13..

submits that his asylum application to the Danish authorities attached pictures of his car and his parents' home after the bombing in December 2010, which were not taken into account in the RAB's assessment. Likewise, the State party's observations refer to the contents of the document issued by the INP, dated 10 May 2011, that confirmed the author's membership; however the State party has not stated whether it considers it a forged document. Against this background, the author argues that the RAB's decision focused on the inconsistencies of his oral and written statements and denied his asylum request without assessing adequately the documentary evidence submitted by him. In this connection, he submits that his accounts were consistent regarding the core part of his allegations.

5.5 The author points out that although he has not been subjected to torture in Iraq prior to his departure, he was victim of attacks by persons, who allegedly belonged to a political group opposed to the INP, that put his life at risk in a context in which the Iraqi authorities could not provide him with protection.

#### **Parties' additional information**

6. On 19 October 2012, the State party submitted additional information to the Committee and reiterated its previous observations. It maintained that the author's return to Iraq would not constitute a violation of his rights under articles 2, 6, 7, 13, 14 and 26, of the Covenant.

7. On 4 December 2012, the author reiterated his allegations that asylum seekers cannot have access to courts since the RAB's decision is final and cannot be appealed. He claims that during the hearings at the RAB, its members posed a number of questions to him in a hostile manner that gave him the feeling that they were not impartial.

8.1 On 15 June 2015, the State party submitted additional information and maintained that the author's allegations of violations of articles 2, 6, 7, 13, and 26, of the Covenant are inadmissible as manifestly unsubstantiated.

8.2 With regard to the author's allegations under article 14 of the Covenant, the State party submits that they are inadmissible *ratione materiae*.<sup>5</sup> It further points out that the RAB is an independent, expert board of a quasi-judicial nature, whose Chairman is a judge, whose proceedings are oral, and before which the applicant is represented by counsel.

8.3 The RAB's decision cannot be appealed and therefore its assessment of evidence is not subject to review. Aliens may, however, by virtue of the Danish Constitution, bring an appeal before the ordinary courts, which have authority to adjudicate any matter concerning the limits to the competence of a public authority. As established by the Supreme Court, the ordinary courts' review of the decisions of the RAB is limited to a review of legal issues. Such issues include defects in the basis of the decision, procedural errors, unlawful exercise of discretion and disqualification of Board members. The author has not brought any such proceedings concerning legal issues before the Danish courts.

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

##### *Consideration of admissibility*

9.1 Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

<sup>5</sup> The State party refers to the Committee's jurisprudence concerning communication No. 2007/2010, *X. v. Denmark*, decision of 24 April 2014, para. 8.5.

9.2 The Committee notes, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under any other procedure of international investigation or settlement.

9.3 The Committee recalls its jurisprudence, in which it has stated that authors of communications must exhaust all domestic remedies in order to fulfil the requirement of article 5 (2) (b) of the Optional Protocol, insofar as such remedies appear to be effective in the given case and are de facto available to the author.<sup>6</sup> The Committee notes that the author unsuccessfully appealed the negative asylum decision before the Danish Refugee Appeals Board and that the State party does not challenge the exhaustion of domestic remedies by the author. The Committee, therefore, considers that it is not prevented from considering the present communication under article 5 (2) (b) of the Optional Protocol.

9.4 As to the author's claim under article 2 of the Covenant in relation to the expulsion decision, the Committee recalls its jurisprudence, which indicates that the provisions of article 2 of the Convention lay down general obligations for State parties and they cannot give rise, when invoked separately, to a claim in a communication under the Optional Protocol.<sup>7</sup> The Committee therefore considers that the author's claims in that regard are inadmissible under article 2 of the Optional Protocol.

9.5 The Committee notes the author's claim that the decisions of the Refugee Appeals Board are the only decisions that are final without possibility of appeal before the national courts; that he had limited time to prepare his application and submit evidence; that the RAB lacks impartiality and independence as one of his members is an employee of the Ministry of Justice; that during the hearings at the RAB, its members posed questions to him in a hostile manner; and that the State party has thus violated his rights under articles 13 and 14 of the Covenant. In that regard, the Committee refers to its jurisprudence, in which it has stated that proceedings relating to the expulsion of aliens do not fall within the ambit of a determination of "rights and obligations in a suit at law" within the meaning of article 14 (1), but are governed by article 13 of the Covenant.<sup>8</sup> Article 13 of the Covenant offers some of the protection afforded under article 14 of the Covenant, but not the right of appeal.<sup>9</sup> The Committee therefore considers that the author's claim under article 14 is inadmissible *ratione materiae* pursuant to article 3 of the Optional Protocol.

9.6 With regard to the author's claims under article 13, the Committee also takes note of the State party's arguments that the author's asylum proceedings were conducted in conformity with the law; that he was able to submit evidence and clarify his statements; that the RAB is an independent, expert board of a quasi-judicial nature, whose Chairman is a judge, and before which the applicant is represented by counsel; and that the RAB is under obligation to bring out the facts and make objectively correct decisions. The Committee observes that the author was afforded an opportunity to submit and challenge evidence

---

<sup>6</sup> See communications No. 1959/2010, *Warsame v. Canada*, Views adopted on 21 July 2011, para. 7.4; and No. 1003/2001, *P.L. v. Germany*, decision of inadmissibility adopted on 22 October 2003, para. 6.5.

<sup>7</sup> See Communications No. 2202/2012, *Castañeda v. Mexico*, decision adopted on 29 August 2013, para. 6.8; No. 1834/2008, *A.P. v. Ukraine*, decision adopted on 23 July 2012, para. 8.5; and No. 1887/2009, *Peirano Basso v. Uruguay*, Views adopted on 19 October 2010, para. 9.4.

<sup>8</sup> See, communications No. 2288/2013, *Omo-Amenaghawon v. Denmark*, Views adopted on 23 July 2015, para. 6.4; 2186/2012, *X and X v. Denmark*, Views adopted on 22 October 2014, para. 6.3; No. 1494/2006, *A.C. v. The Netherlands*, decision of inadmissibility adopted on 22 July 2008, para. 8.4; and No. 1234/2003, *P.K. v. Canada*, decision of inadmissibility adopted on 20 March 2007, paras. 7.4 and 7.5.

<sup>9</sup> See the Committee's general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial, paras. 17 and 62.



concerning his removal and that the author took the opportunity, under domestic law, to have his asylum application examined by the Danish Immigration Service and reviewed by the Danish Refugee Appeals Board. Consequently, the Committee considers that the author has not sufficiently substantiated his claim for purposes of admissibility and that this part of the communication must therefore be declared inadmissible in accordance with article 2 of the Optional Protocol.

9.7 The Committee notes the author's claims under articles 26 of the Covenant that, the RAB's decision and its procedure constitute a discrimination against asylum seekers, since decisions by administrative bodies, except the RAB's ones, can be appealed before courts pursuant to the State party's law. The Committee, however, considers that the author has failed to sufficiently substantiate his claims under article 26 and declares this part of the communication inadmissible pursuant to article 2 of the Optional Protocol.

9.8 The Committee notes that author's allegation under articles 6 and 7 of the Covenant, that if returned to Iraq, he would be at risk of being killed or tortured as a result of his alleged past membership to the Iraqi Nation Party, the attacks he allegedly suffered prior to his departure in Iraq by political opponents, and the failure of the Iraqi authorities to provide him with protection. The Committee also takes note of the State party's argument that the author's claims under articles 6 and 7 are not substantiated.

9.9 The Committee recalls its general comment No. 31,<sup>10</sup> in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory, where 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. The Committee has also indicated that the risk must be personal and that the threshold for providing substantial grounds to establish that a real risk of irreparable harm exists is high.<sup>11</sup> The Committee further recalls its jurisprudence that 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 or evaluate facts and evidence in order to determine whether such risk exists<sup>12</sup>, unless it is found that the evaluation was clearly arbitrary or amounted to a manifest error or to a denial of justice.<sup>13</sup>

9.10 In the present case, the Committee observes that the author's claims mainly rely on the alleged lack of assessment by the authorities of the documentary evidence submitted by him in the asylum proceedings, in particular, the photographs that show a bombed house, allegedly belonging to his parents and a document issued by the INP on 10 May 2011, which allegedly corroborated his membership to this party. In this connection, the Committee observes that the RAB's decision of 18 May 2011 took note of the allegations raised by the author before the State party's authorities, including the asylum registration report prepared by the Aliens Division of the Danish Immigration Police, his asylum application form, his statements in the interview with the Danish Immigration Service and at the RAB's hearing, as well as the documentation submitted by him in support of his claims. Yet it found that the author had not, in a coherent and credible manner, been able to account for his alleged activities for the INP and for the assaults on him and the attempts

---

<sup>10</sup> 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.

<sup>11</sup> See communications No. 2007/2010, *X v. Denmark*, Views adopted on 26 March 2014, para. 9.2; No. 692/1996, *A.R.J. v. Australia*, Views adopted on 28 July 1997, para. 6.6; and No. 1833/2008, *X v. Sweden*, Views adopted on 1 November 2011, para. 5.18.

<sup>12</sup> See communication No. 1957/2010, *Lin v. Australia*, Views adopted on 21 March 2013, para. 9.3.

<sup>13</sup> See, inter alia, *ibid.* and communication No. 541/1993, *Errol Simms v. Jamaica*, inadmissibility decision adopted on 3 April 1995, para. 6.2.

on his life and thus the risk to which he would be exposed if returned to Iraq. The author disagrees with the RAB's decision. However, he has failed to explain why this decision is manifestly unreasonable or arbitrary, for instance due to the failure to take properly into account a relevant risk factor. Moreover, the author has not pointed to any procedural irregularities in the decision-making procedure by the Danish Immigration Service or the Refugee Appeals Board. Accordingly, the Committee considers that the author has not sufficiently substantiated the allegations under articles 6 and 7 of the Covenant for the purposes of admissibility and finds these claims inadmissible under article 2 of the Optional Protocol.

10. The Human Rights Committee therefore decides:

- (a) That the communication is inadmissible under articles 2 and 3 of the Optional Protocol;
- (b) That the decision be transmitted to the State party and to the author.

---